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Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION

4) IN RE: DEALER MANAGEMENT) MDL NO. 2817
5) SYSTEMS ANTITRUST)
6) LITIGATION,) CASE NO. 18 C 864
7))

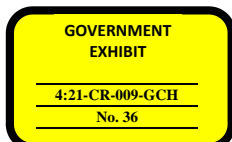
8 ORAL AND VIDEOTAPED DEPOSITION OF ROBERT BROCKMAN

9 Highly Confidential - Attorneys' Eyes Only

10 January 16, 2019

11 VOLUME 1

12
13 ORAL AND VIDEOTAPED DEPOSITION OF ROBERT BROCKMAN,
14 produced as a witness at the instance of the
15 PLAINTIFF(S), and duly sworn, was taken in the
16 above-styled and numbered cause on the 16th day of
17 January, 2019, from 9:30 a.m. to 2:56 p.m., via
18 telephone, before Shauna L. Beach, RDR, CRR, CSR in and
19 for the State of Texas, reported by machine shorthand,
20 at the law offices of Gibbs & Bruns, LLP, 1100
21 Louisiana, Suite 5300, Houston, Texas 77002, pursuant to
22 the Federal Rules of Civil Procedure and the provisions
23 stated on the record or attached hereto.
24
25



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<p>Page 2</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR THE REYNOLDS AND REYNOLDS COMPANY AND THE WITNESS:</p> <p>3 AUNDREA K. GULLEY</p> <p>4 BRICE WILKINSON</p> <p>5 Gibbs & Bruns, LLP</p> <p>6 1100 Louisiana</p> <p>7 Suite 5300</p> <p>8 Houston, Texas 77002</p> <p>9 agulley@gibbsbruns.com</p> <p>10 bwilkinson@gibbsbruns.com</p> <p>11</p> <p>12 FOR THE REYNOLDS AND REYNOLDS COMPANY AND THE WITNESS:</p> <p>13</p> <p>14 MICHAEL P.A. COHEN</p> <p>15 Sheppard Mullin</p> <p>16 2099 Pennsylvania Avenue</p> <p>17 Suite 100</p> <p>18 Washington, D.C. 20006-6801</p> <p>19 mcohen@sheppardmullin.com</p> <p>20 FOR AUTHENTICOM, COX AUTOMOTIVE AND ITS NAMED PLAINTIFF</p> <p>21 SUBSIDIARIES, MDSC, AUTOLOOP AS A REPRESENTATIVE OF THE</p> <p>22 VENDOR CLASS:</p> <p>23 MICHAEL N. NEMELKA</p> <p>24 Kellogg Hansen Todd Figel & Frederick</p> <p>25 Sumner Square</p> <p>1615 M Street, N.W., Suite 400</p> <p>Washington, D.C. 20036</p> <p>mnemelka@kellogghansen.com</p> <p>jlong@kellogghansen.com</p> <p>FOR THE DEALERSHIP CLASS PLAINTIFFS:</p> <p>PEGGY J. WEDGWORTH</p> <p>ROBERT WALLNER (appearing telephonically)</p> <p>JOHN HUGHES</p> <p>Milberg Tadler Phillips Grossman, LLP</p> <p>One Pennsylvania Plaza</p> <p>19th Floor</p> <p>New York, New York 10119</p> <p>pwedgworth@milberg.com</p> <p>rwallner@milberg.com</p>	<p>Page 4</p> <p>1 INDEX</p> <p>2 PAGE</p> <p>3</p> <p>4 Appearances 2</p> <p>5</p> <p>6 ROBERT BROCKMAN</p> <p>7 Examination by Mr. Nemelka 9</p> <p>8</p> <p>9 Signature and Changes 164</p> <p>10</p> <p>11 Reporter's Certificate 165</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p>Page 3</p> <p>1 A P P E A R A N C E S</p> <p>2 FOR CDK GLOBAL:</p> <p>3 MARK RYAN</p> <p>4 Mayer Brown</p> <p>5 1999 K Street, N.W.</p> <p>6 Washington, DC 20006-1101</p> <p>7 mryan@mayerbrown.com</p> <p>8 ALSO PRESENT:</p> <p>9 SCOTT CHERRY</p> <p>10 Vice President - General Counsel at The Reynolds</p> <p>11 and Reynolds Company</p> <p>12 Joseph Long</p> <p>13 Kellogg Hansen Todd Figel & Frederick</p> <p>14</p> <p>15 Ben Harwood, Videographer</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 Veritext Legal Solutions</p> <p>22 Mid-Atlantic Region</p> <p>23 1250 Eye Street NW - Suite 350</p> <p>24 Washington, D.C. 20005</p> <p>25</p>	<p>Page 5</p> <p>1 PLAINTIFF EXHIBITS</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 636 Brockman On the Record publication 25</p> <p>4 Exhibit 637 Website screenshot Fuel Ideas to 27</p> <p>5 Drive</p> <p>6 Exhibit 638 Article Automotive News dated 32</p> <p>7 February 19, 2007</p> <p>8 Exhibit 639 Data Agreement 44</p> <p>9 REYMDL00716766 - REYMDL00716767</p> <p>10 Exhibit 640 Email chain ending with email to 57</p> <p>11 Ronald Lamb from Bob Brockman dated</p> <p>12 September 20, 2013</p> <p>13 REYMDL00200760 - REYMDL00200761</p> <p>14 Highly Confidential - Attorneys'</p> <p>15 Eyes Only</p> <p>16 Exhibit 641 Email chain ending with email to 63</p> <p>17 Howard Gardner from Robert Schaefer</p> <p>18 dated 11/25/2013</p> <p>19 CDK_CID_00569545 - CDK_CID_00569547</p> <p>20 Confidential</p> <p>21 Highly Confidential</p> <p>22 Exhibit 642 Notes 74</p> <p>23 Long Standing issues around</p> <p>24 security</p> <p>25 REYMDL00260942 - REYMDL00260943</p> <p>Highly Confidential - Attorneys'</p> <p>Eyes Only</p> <p>Exhibit 643 Email to Bob Brockman from Steve 82</p> <p>Anenen dated 7/2/2014</p> <p>CDK_CID_01535307 - CDK_CID_01535308</p> <p>Confidential</p> <p>Highly Confidential</p> <p>Exhibit 644 Notes - Sales Meeting - July 14, 92</p> <p>2014</p> <p>REYMDL00261631 - REYMDL00261635</p> <p>Highly Confidential - Attorneys'</p> <p>Eyes Only</p>

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<p style="text-align: right;">Page 6</p> <p>1 PLAINTIFF EXHIBITS</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 645 Email chain ending with email to 106</p> <p>4 Ron Workman from Robert Schaefer</p> <p>5 dated 1/6/2015</p> <p>6 CDK_CID_00242098 - CDK_CID_00242099</p> <p>7 Confidential</p> <p>8 Highly Confidential</p> <p>9 Exhibit 646 Email chain ending with email to 107</p> <p>10 Bob Brockman from Robert Schaefer</p> <p>11 dated January 11, 2015</p> <p>12 REYMDL00565070 - REYMDL00565071</p> <p>13 Highly Confidential -</p> <p>14 Attorneys' Eyes Only</p> <p>15 Exhibit 647 Data Exchange Agreement 111</p> <p>16 REYMDL00014384 - REYMDL00014396</p> <p>17 Confidential</p> <p>18 Exhibit 648 Email chain ending with email to 123</p> <p>19 Craig Moss from Dan Agan dated May</p> <p>20 12, 2015</p> <p>21 REYMDL00652128 - REYMDL00652133</p> <p>22 Highly Confidential - Attorneys'</p> <p>23 Eyes Only</p> <p>24 Exhibit 649 Email chain ending with email to 126</p> <p>25 Tommy Barras from Bob Brockman</p> <p> dated August 22, 2015</p> <p> REYMDL00044042 - REYMDL00044043</p> <p> Highly Confidential - Attorneys'</p> <p> Eyes Only</p> <p> Exhibit 650 Email to Bob Brockman from Tommy 129</p> <p> Barras dated July 7, 2017</p> <p> REYMDL00226199 - REYMDL00226200.002</p> <p> Highly Confidential - Attorneys'</p> <p> Eyes Only</p> <p> Exhibit 651 Email to Bob Brockman from Craig 134</p> <p> Moss dated August 25, 2017</p> <p> REYMDL00720415 - REYMDL00720511</p> <p> Highly Confidential - Attorneys'</p> <p> Eyes Only</p>	<p style="text-align: right;">Page 8</p> <p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Good morning. We are on</p> <p>3 the record at 9:30 a.m. on January 16th, 2019. This is</p> <p>4 the video recorded deposition of Mr. Robert Brockman in</p> <p>5 the matter of In Re: Dealer Management Systems Antitrust</p> <p>6 Litigation in the United States District Court for the</p> <p>7 Northern District of Illinois in the Eastern Division.</p> <p>8 This deposition is being held at Gibbs & Bruns, LLP,</p> <p>9 located at 1100 Louisiana Street, Suite 5300, in</p> <p>10 Houston, Texas 77002.</p> <p>11 My name is Ben Harwood, and I'm the</p> <p>12 videographer present on behalf of Veritext. The court</p> <p>13 reporter is Shauna Beach, also present on behalf of</p> <p>14 Veritext.</p> <p>15 Will counsel please state their appearance</p> <p>16 and firm affiliation for the record.</p> <p>17 MR. NEMELKA: My name is Mike Nemelka with</p> <p>18 the law firm of Kellogg Hansen Todd Figel & Frederick.</p> <p>19 I'm here on behalf of Authenticom, Cox Automotive and</p> <p>20 its named plaintiff subsidiaries, MDSC, Autoloop as a</p> <p>21 representative of the vendor class. And with me today</p> <p>22 is my colleague, Joe Long.</p> <p>23 MS. WEDGWORTH: Peggy Wedgworth, Milberg</p> <p>24 Tadler Phillips Grossman, on behalf of the dealership</p> <p>25 class plaintiffs.</p>
<p style="text-align: right;">Page 7</p> <p>1 PLAINTIFF EXHIBITS</p> <p>2 NO. DESCRIPTION PAGE</p> <p>3 Exhibit 652 Email to Robert Schaefer from Bob 141</p> <p>4 Brockman dated April 14, 2016</p> <p>5 REYMDL00238133</p> <p>6 Highly Confidential - Attorneys'</p> <p>7 Eyes Only</p> <p>8 Exhibit 653 Email chain ending with email to 143</p> <p>9 Schaefer from Bob Brockman dated</p> <p>10 April 19, 2017</p> <p>11 REYMDL00138479</p> <p>12 Highly Confidential - Attorneys'</p> <p>13 Eyes Only</p> <p>14 Exhibit 654 Email to Bob Brockman from Robert 144</p> <p>15 Schaefer dated November 10, 2015</p> <p>16 REYMDL00044241 - REYMDL00044242</p> <p>17 Highly Confidential - Attorneys'</p> <p>18 Eyes Only</p> <p>19 Exhibit 655 Email chain ending with email to 153</p> <p>20 Tommy Barras from Bob Brockman</p> <p>21 dated August 15, 2017</p> <p>22 REYMDL00263558</p> <p>23 Highly Confidential - Attorneys'</p> <p>24 Eyes Only</p> <p>25 Exhibit 656 Email chain ending with email to 158</p> <p> Keith Hill from Bob Brockman dated</p> <p> November 28, 2017</p> <p> REYMDL00263619</p> <p> Highly Confidential - Attorneys'</p> <p> Eyes Only</p>	<p style="text-align: right;">Page 9</p> <p>1 MR. HUGHES: John Hughes, Milberg Tadler</p> <p>2 Phillips Grossman on behalf of dealership class</p> <p>3 plaintiffs.</p> <p>4 MS. GULLEY: Andi Gulley, Gibbs & Bruns,</p> <p>5 for the witness.</p> <p>6 MR. WILKINSON: Brice Wilkinson, Gibbs &</p> <p>7 Bruns.</p> <p>8 MR. CHERRY: Scott Cherry, general counsel</p> <p>9 for Reynolds and Reynolds.</p> <p>10 MR. COHEN: Michael Cohen, Sheppard Mullin,</p> <p>11 for defendant the Reynolds and Reynolds Company and the</p> <p>12 witness, Mr. Brockman.</p> <p>13 MR. RYAN: Mark Ryan from Mayer Brown on</p> <p>14 behalf of CDK Global.</p> <p>15 THE VIDEOGRAPHER: Will the court reporter</p> <p>16 please swear in the witness and we may proceed.</p> <p>17 ROBERT BROCKMAN,</p> <p>18 having been first duly sworn, testified as follows:</p> <p>19 EXAMINATION</p> <p>20 BY MR. NEMELKA:</p> <p>21 Q. Good morning, Mr. Brockman. My name is Mike</p> <p>22 Nemelka. And it's my opportunity to ask you some</p> <p>23 questions today. Could you please state your full name</p> <p>24 for the record.</p> <p>25 A. It's Robert Theron Brockman.</p>

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<p style="text-align: right;">Page 10</p> <p>1 Q. And where do you live?</p> <p>2 A. Houston.</p> <p>3 Q. And what is your address?</p> <p>4 A. [REDACTED] Houston 77024.</p> <p>5 Q. Do you own property anywhere else?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. My wife and I own a townhouse that our son</p> <p>8 lives in. It's [REDACTED]</p> <p>9 Q. (By Mr. Nemelka) Do you own property in any</p> <p>10 other states besides Texas?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. No.</p> <p>13 Q. (By Mr. Nemelka) Does any entity that you have</p> <p>14 control over own property anywhere else?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. Reynolds and Reynolds owns two locations in</p> <p>17 Ohio. One is the Reynolds and Reynolds main</p> <p>18 headquarters, and the other one is a forms manufacturing</p> <p>19 plant.</p> <p>20 Q. (By Mr. Nemelka) Do you own property in Aspen,</p> <p>21 Colorado?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. No.</p> <p>24 Q. (By Mr. Nemelka) Do you have -- is there</p> <p>25 property there that you visit from time to time?</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. (By Mr. Nemelka) And with whom did you meet?</p> <p>2 With whom did you meet?</p> <p>3 A. Andi Gulley, Bryce, Scott Cherry, Michael.</p> <p>4 Q. Were any attorneys for CDK present?</p> <p>5 A. No.</p> <p>6 Q. Was there anybody else from Reynolds present?</p> <p>7 A. Yes. We had a -- one other attorney from</p> <p>8 Reynolds.</p> <p>9 Q. And who was that?</p> <p>10 A. John -- I'm blanking on his last name. He</p> <p>11 works for Scott Cherry.</p> <p>12 Q. Okay. Any businesspeople from Reynolds present</p> <p>13 when you prepared for the deposition?</p> <p>14 A. No.</p> <p>15 Q. Did you talk to anybody at Reynolds about your</p> <p>16 deposition?</p> <p>17 A. No. Other than the fact they know that I'm</p> <p>18 here.</p> <p>19 Q. Correct. Have you ever been deposed before?</p> <p>20 A. Yes.</p> <p>21 Q. How many times?</p> <p>22 A. I don't recall the last time. Some time ago.</p> <p>23 Q. Uh-huh. Well, so this isn't your first --</p> <p>24 first rodeo, but just a few -- few ground rules to help</p> <p>25 us get through the day efficiently. I'm going to do my</p>
<p style="text-align: right;">Page 11</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. Yes. There's property that I lease.</p> <p>3 Q. (By Mr. Nemelka) That you lease. And who do</p> <p>4 you lease it from?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. It's called Mountain Queen, Inc.</p> <p>7 Q. (By Mr. Nemelka) Do you have any ownership</p> <p>8 interest in Mountain Queen, Inc.?</p> <p>9 A. No.</p> <p>10 Q. Okay. Did you prepare for your deposition</p> <p>11 today?</p> <p>12 A. Yes. I talked to my attorneys and reviewed</p> <p>13 exhibits.</p> <p>14 MS. GULLEY: Stop. Don't reveal the</p> <p>15 subject of -- of attorney-client communication.</p> <p>16 Q. (By Mr. Nemelka) And when did you prepare for</p> <p>17 your deposition today?</p> <p>18 A. Yesterday and the day before.</p> <p>19 Q. And how long each day did you meet?</p> <p>20 A. I'm sorry, I didn't keep track of the time.</p> <p>21 Q. Was it a full day or half day?</p> <p>22 A. It was probably in between.</p> <p>23 Q. So three-fourths of the day, each day?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 13</p> <p>1 best not to talk over you, and if you will just let me</p> <p>2 finish my question, and then I'll give you time to</p> <p>3 answer it. So let's try not to talk over each other,</p> <p>4 okay?</p> <p>5 A. Yes.</p> <p>6 Q. And please let me know if you don't understand</p> <p>7 a question. If you answer, then we'll consider that you</p> <p>8 understood the question. Okay?</p> <p>9 A. Yes.</p> <p>10 Q. Your counsel may object, but you still have to</p> <p>11 answer the question unless your counsel instructs you</p> <p>12 not to. And so even though your counsel may object,</p> <p>13 unless he instructs you not to answer, please still</p> <p>14 answer my questions, okay?</p> <p>15 A. Yes.</p> <p>16 Q. I understand that you may have been having</p> <p>17 some -- you've had some health issues, and this is -- so</p> <p>18 this is not an endurance test. If you need a break, you</p> <p>19 can take one. Okay?</p> <p>20 A. Yes.</p> <p>21 Q. I would just ask that, before taking a break,</p> <p>22 if you would -- if you would just finish answering a</p> <p>23 question if a question is pending. Is that okay?</p> <p>24 A. Yes.</p> <p>25 Q. And -- but I'll still plan on trying to take a</p>

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<p style="text-align: right;">Page 14</p> <p>1 break about every hour, for me as well as for you. But</p> <p>2 if you need one in shorter intervals, that's fine.</p> <p>3 Okay?</p> <p>4 A. Thank you.</p> <p>5 Q. Is there any reason that you can't provide</p> <p>6 truthful testimony today?</p> <p>7 A. No.</p> <p>8 Q. Okay. You graduated from the University of</p> <p>9 Florida, College of Business; correct?</p> <p>10 A. Yes.</p> <p>11 Q. Class of 1963?</p> <p>12 A. Yes.</p> <p>13 Q. And after graduating from the University of</p> <p>14 Florida, you worked at the Ford Motor Company for about</p> <p>15 two years; is that right?</p> <p>16 A. Yes, a little short of two years.</p> <p>17 Q. And then after Ford you joined IBM; is that</p> <p>18 right?</p> <p>19 A. Yes.</p> <p>20 Q. And you were a successful salesperson there;</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. And I -- I think I understand that you sold</p> <p>24 data processing services, in part; is that right?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 A. Not originally, but later in its existence, it</p> <p>2 was called Power.</p> <p>3 Q. And then in August 2006, UCS acquired the</p> <p>4 Reynolds and Reynolds Company; is that right?</p> <p>5 A. It was a different date.</p> <p>6 Q. Different date? It was -- oh, it was in 2006,</p> <p>7 though?</p> <p>8 A. Yes.</p> <p>9 Q. What -- what was the month?</p> <p>10 A. October.</p> <p>11 Q. October. Thank you. And UCS paid 2.8 billion</p> <p>12 in cash; is that right?</p> <p>13 A. Yes.</p> <p>14 Q. And prior to the deal, Reynolds was a public</p> <p>15 company, right?</p> <p>16 A. Yes.</p> <p>17 Q. But with the acquisition, Reynolds became a</p> <p>18 wholly-owned subsidiary of UCS; correct?</p> <p>19 A. It's -- that's not the correct company. It's</p> <p>20 called Dealer Computer Services.</p> <p>21 Q. And Dealer Computer Services was the -- was the</p> <p>22 holding company that owned Reynolds?</p> <p>23 A. Yes.</p> <p>24 Q. Okay. And the top-level holding company of --</p> <p>25 of Reynolds is Universal Computer Systems Holdings,</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. And you were at IBM until about 1970, at which</p> <p>2 point you left IBM and founded Universal Computer</p> <p>3 Services, Inc.; is that right?</p> <p>4 A. Yes.</p> <p>5 Q. And you -- impressively -- taught yourself</p> <p>6 computer programming around this time as well; is that</p> <p>7 right?</p> <p>8 A. Yes.</p> <p>9 Q. And eventually, UCS developed and provided</p> <p>10 dealership management system software to car</p> <p>11 dealerships; is that right?</p> <p>12 A. Yes.</p> <p>13 Q. And, in fact, you were personally involved in</p> <p>14 the programming of some of the dealership management</p> <p>15 software that was sold -- licensed to dealers; is that</p> <p>16 right?</p> <p>17 A. Yes.</p> <p>18 Q. And over the 1980s, 1990s and 2000s, you</p> <p>19 continued to run UCS, right?</p> <p>20 A. Yes.</p> <p>21 Q. UCS served, primarily, large dealerships; is</p> <p>22 that right?</p> <p>23 A. Yes.</p> <p>24 Q. And was the DNS that UCS marketed -- was it</p> <p>25 called the PowerDNS?</p>	<p style="text-align: right;">Page 17</p> <p>1 Inc.; is that right?</p> <p>2 A. Yes.</p> <p>3 Q. And the A. Eugene Brockman Charitable Trust</p> <p>4 owns about 96 percent of that holding company; is that</p> <p>5 right?</p> <p>6 MS. GULLEY: Form.</p> <p>7 A. No. That's not correct. The -- the ownership</p> <p>8 structure is different than that.</p> <p>9 Q. (By Mr. Nemelka) Okay. And what is the</p> <p>10 ownership structure?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. The Universal Computer Systems Holding, Inc.,</p> <p>13 is owned by Spanish Steps.</p> <p>14 Q. (By Mr. Nemelka) Okay. When was Spanish Steps</p> <p>15 formed?</p> <p>16 A. I'm sorry. I -- I don't know the answer to</p> <p>17 that.</p> <p>18 Q. And who owns Spanish Steps?</p> <p>19 A. The A. Eugene Brockman Charitable Trust.</p> <p>20 Q. And what percentage of Spanish Steps does the</p> <p>21 charitable trust own?</p> <p>22 MS. GULLEY: Form.</p> <p>23 A. Again, I don't know the answer to that. I</p> <p>24 believe it's, substantially, all.</p> <p>25 Q. (By Mr. Nemelka) Substan- -- does 96 percent</p>

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<p style="text-align: right;">Page 18</p> <p>1 sound about right to you?</p> <p>2 MS. GULLEY: Objection; form.</p> <p>3 A. Yeah, I -- I can't guess at that.</p> <p>4 Q. (By Mr. Nemelka) Is it between -- is it -- is</p> <p>5 it in the 90s, the percentage?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. I believe so.</p> <p>8 Q. (By Mr. Nemelka) Are there any other owners of</p> <p>9 Spanish Steps besides the Eugene Brockman Charitable</p> <p>10 Trust?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. Yes.</p> <p>13 Q. (By Mr. Nemelka) And who are they?</p> <p>14 MS. GULLEY: Form.</p> <p>15 A. Norman Thomas Barras and Terry Jones. That's</p> <p>16 all.</p> <p>17 Q. (By Mr. Nemelka) That's all? And do they --</p> <p>18 their ownership interest is about .8 -- is it 0.08</p> <p>19 percent? Is that right?</p> <p>20 MS. GULLEY: Form.</p> <p>21 Q. (By Mr. Nemelka) Or 0.008 percent; is that</p> <p>22 right?</p> <p>23 A. It's 8/10ths of a percent.</p> <p>24 MS. GULLEY: Form.</p> <p>25 Q. (By Mr. Nemelka) 8/10ths of a percent,</p>	<p style="text-align: right;">Page 20</p> <p>1 Company.</p> <p>2 Q. (By Mr. Nemelka) Are they the only trustees of</p> <p>3 the trust?</p> <p>4 A. Yes.</p> <p>5 Q. And who appointed them as trustees of the</p> <p>6 trust?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. They were not the original trust company.</p> <p>9 There's been a -- there's -- it was -- the original</p> <p>10 trust company was Bank of Bermuda.</p> <p>11 Q. (By Mr. Nemelka) And who appointed the Bank of</p> <p>12 Bermuda as trustee?</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. I'm sorry. I can't give you an answer on that.</p> <p>15 I'm not familiar with how trusts -- trusts get set up.</p> <p>16 Q. (By Mr. Nemelka) Could St. Johns Trust Company</p> <p>17 be removed as the trustee?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. Yes.</p> <p>20 Q. (By Mr. Nemelka) And who -- who has that</p> <p>21 authority to remove them as trustee?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. I -- I don't know the name of the person, but</p> <p>24 there is the -- there is a trust protector.</p> <p>25 Q. (By Mr. Nemelka) And who is the trust</p>
<p style="text-align: right;">Page 19</p> <p>1 correct. And there are no other owners besides those</p> <p>2 two and the charitable trust; is that right?</p> <p>3 MS. GULLEY: Form.</p> <p>4 A. That's correct.</p> <p>5 Q. (By Mr. Nemelka) So 8/10ths of a percent -- so</p> <p>6 times that by -- by two, and then the rest of it is</p> <p>7 owned by the charitable trust; is that right?</p> <p>8 MS. GULLEY: Form.</p> <p>9 A. I believe that's correct.</p> <p>10 Q. (By Mr. Nemelka) So we're talking upwards of</p> <p>11 98 -- 98 percent of the -- of the company, right?</p> <p>12 MS. GULLEY: Form.</p> <p>13 A. That's correct.</p> <p>14 Q. (By Mr. Nemelka) Okay. And this is an</p> <p>15 offshore trust; correct?</p> <p>16 A. That's correct.</p> <p>17 Q. Where is it based?</p> <p>18 A. Bermuda.</p> <p>19 Q. And when was the trust created?</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 A. 1981.</p> <p>22 Q. (By Mr. Nemelka) Who were the trustees of the</p> <p>23 trust?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. There's a trust company called St. Johns Trust</p>	<p style="text-align: right;">Page 21</p> <p>1 protector?</p> <p>2 A. I'm sorry. It's an individual. I don't know</p> <p>3 the person's name.</p> <p>4 Q. And who appointed the trust protector?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. I'm sorry. I -- I don't know.</p> <p>7 Q. (By Mr. Nemelka) And can the trust protector</p> <p>8 be removed?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. Again, this is an area of law that I'm -- I'm</p> <p>11 not familiar with.</p> <p>12 Q. (By Mr. Nemelka) And who are the beneficiaries</p> <p>13 of the trust?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. There is myself, my wife, my brother, his wife</p> <p>16 and all the charities of Bermuda, United States, United</p> <p>17 Kingdom.</p> <p>18 Q. (By Mr. Nemelka) Excuse me. What was that</p> <p>19 last one? All charities?</p> <p>20 A. All -- all charities in the United States and</p> <p>21 all charities in the United Kingdom.</p> <p>22 Q. What does that mean, "all charities"? Every --</p> <p>23 every 501c3 organization?</p> <p>24 A. Every one of them is -- is a potential</p> <p>25 beneficiary.</p>

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<p style="text-align: right;">Page 22</p> <p>1 Q. I see. Does the -- does the trust distribute 2 income to the beneficiaries? 3 MS. GULLEY: Objection; form. 4 A. Yes. 5 Q. (By Mr. Nemelka) How often? 6 MS. GULLEY: Objection; form. 7 A. It depends upon what charitable project that 8 is -- is -- is underway. You know, the only -- the only 9 distributions have been to charitable entities. 10 Q. (By Mr. Nemelka) Those have been the only 11 distributions? To charitable entities? 12 A. Yes, sir. 13 Q. Have you -- have you received any charitable -- 14 I mean -- excuse me -- have you received any 15 distributions from the trust? 16 A. No. 17 Q. And how much cash does the trust have? 18 MS. GULLEY: Objection; form. 19 A. I'm sorry. I don't know. 20 Q. (By Mr. Nemelka) Does the trust have any 21 day-to-day oversight responsibilities of the running of 22 the Reynolds and Reynolds Company? 23 MS. GULLEY: Objection; form. 24 A. No. 25 Q. (By Mr. Nemelka) You're the chairman and CEO</p>	<p style="text-align: right;">Page 24</p> <p>1 dealerships; isn't that right? 2 MS. GULLEY: Objection; form. 3 A. I -- I don't know -- or know how to keep track 4 of exactly what the percentages are, but -- but I would 5 say in that general area. 6 Q. (By Mr. Nemelka) At Reynolds, the DMS has a 7 database component where dealers store their data, 8 right? 9 MS. GULLEY: Objection; form. 10 A. Yes. 11 Q. (By Mr. Nemelka) And dealers generate a lot of 12 data in the course of operating their business; correct? 13 A. Yes. 14 Q. Sales transactions, right? 15 MS. GULLEY: Objection; form. 16 A. Yes. 17 Q. (By Mr. Nemelka) Vehicle inventory? 18 A. Yes. 19 MS. GULLEY: Objection; form. 20 Q. (By Mr. Nemelka) Parts inventory? 21 MS. GULLEY: Objection; form. 22 A. Yes. 23 Q. (By Mr. Nemelka) Information about the 24 dealership's customers, right? 25 MS. GULLEY: Objection; form.</p>
<p style="text-align: right;">Page 23</p> <p>1 of Reynolds; correct? 2 A. Correct. 3 Q. And as -- your role as chairman and CEO of 4 Reynolds, you have ultimate decision-making authority 5 with respect to the company's practices and policies; is 6 that right? 7 MS. GULLEY: Objection; form. 8 A. Yes. 9 Q. (By Mr. Nemelka) Let's talk a little bit about 10 Reynolds, Mr. Brockman. Reynolds offers dealer 11 management system software to automotive dealers; 12 correct? 13 A. Yes. 14 Q. And it offers two different type of DMSs: 15 ERA-IGNITE and Power; correct? 16 A. Yes. 17 Q. And in the DMS market, CDK is your largest 18 competitor, right? 19 A. Yes. 20 Q. It's fair to say that CDK is Reynolds' chief 21 rival in the DMS market, right? 22 A. Yes. 23 MS. GULLEY: Form. 24 Q. (By Mr. Nemelka) And together you control 25 approximately 75 percent of the DS market for franchised</p>	<p style="text-align: right;">Page 25</p> <p>1 A. Yes. 2 Q. (By Mr. Nemelka) And data from their service 3 departments; correct? 4 MS. GULLEY: Objection; form. 5 A. Yes. 6 Q. (By Mr. Nemelka) And you agree that the data 7 that dealers generate in running their business is the 8 dealer's, right? 9 MS. GULLEY: Objection; form. 10 A. Yes. 11 Q. (By Mr. Nemelka) You've publicly stated the 12 dealers own their data, right? 13 MS. GULLEY: Objection; form. 14 A. Yes. 15 Q. (By Mr. Nemelka) And you agree that dealers 16 should choose who has access to their data, right? 17 MS. GULLEY: Objection; form. 18 A. Yes. 19 Q. (By Mr. Nemelka) You've publicly told dealers 20 you own your data and choose who you allow access to it, 21 right? 22 MS. GULLEY: Objection; form. 23 A. I'm sorry. I don't remember saying that 24 specific statement. 25 (Exhibit 636 was marked for</p>

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<p style="text-align: right;">Page 26</p> <p>1 identification.)</p> <p>2 Q. (By Mr. Nemelka) I've marked Plaintiff's</p> <p>3 Exhibit 636, which I will hand you. Mr. Brockman, do</p> <p>4 you recognize this document?</p> <p>5 A. Yes.</p> <p>6 Q. Was this an -- a public advertisement that</p> <p>7 you -- that Reynolds issued to the public?</p> <p>8 A. This was done approximately 12 years ago.</p> <p>9 Q. And was it issued to the public?</p> <p>10 A. Yes.</p> <p>11 Q. And if you look at the first bullet point</p> <p>12 there, you say, "You own your data and choose who you</p> <p>13 allow access to it," right?</p> <p>14 A. Yes.</p> <p>15 Q. You also told dealers with respect to their</p> <p>16 data, quote, "You're the boss." If you look above that;</p> <p>17 correct?</p> <p>18 A. Yes.</p> <p>19 Q. And that's a picture of you, there, on that</p> <p>20 advertisement?</p> <p>21 A. Yes. Good picture, I might add.</p> <p>22 Q. Very nice one.</p> <p>23 And that's your signature at the end?</p> <p>24 A. Yes.</p> <p>25 Q. Identifying you as the chairman and CEO of</p>	<p style="text-align: right;">Page 28</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. Yes, I see that.</p> <p>3 Q. (By Mr. Nemelka) So this is consistent with</p> <p>4 your public statement that -- that business -- excuse</p> <p>5 me -- strike that.</p> <p>6 This is consistent with your public</p> <p>7 statement that we just looked at, that -- that data that</p> <p>8 dealers generate in operating their business belongs to</p> <p>9 the dealers, right?</p> <p>10 MS. GULLEY: Form.</p> <p>11 A. Yes. It -- you know, where it says, "You own</p> <p>12 your data. Reynolds recognizes" -- I see that</p> <p>13 statement.</p> <p>14 Q. (By Mr. Nemelka) Thank you. You can put that</p> <p>15 aside.</p> <p>16 You're familiar with -- that Reynolds has a</p> <p>17 standard DMS contract with its dealers; correct?</p> <p>18 A. Yes.</p> <p>19 Q. And the Reynolds standard DMS contract also</p> <p>20 recognizes that the dealers own their data; correct?</p> <p>21 A. Yes.</p> <p>22 Q. It says, quote, Reynolds acknowledges that your</p> <p>23 business data belongs to you," end quote; correct?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 Reynolds?</p> <p>2 A. Correct.</p> <p>3 Q. You can put that aside.</p> <p>4 Reynolds also made similar representations</p> <p>5 on its website; correct?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. Sorry. I'm not familiar with that.</p> <p>8 (Exhibit 637 was marked for</p> <p>9 identification.)</p> <p>10 Q. (By Mr. Nemelka) I've handed you a document</p> <p>11 I've marked as Exhibit -- Plaintiff's Exhibit 637.</p> <p>12 Mr. Brockman, this is a printout from the Reynolds</p> <p>13 website. Does that look familiar to you?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. It says it's Reynolds. I'm -- I'm personally</p> <p>16 not familiar with what goes on our website. That's not</p> <p>17 something I pay attention to.</p> <p>18 Q. (By Mr. Nemelka) And if you look at the</p> <p>19 first -- at the top of the -- of the text of this -- of</p> <p>20 this webpage, it says, "Your Data, Your Way." Do you</p> <p>21 see that?</p> <p>22 A. Yes.</p> <p>23 Q. And then it says, "You own your data. Reynolds</p> <p>24 recognizes that you need to share that data outside your</p> <p>25 dealership." Do you see that?</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. (By Mr. Nemelka) Dealers use a lot of software</p> <p>2 applications besides DMS; correct?</p> <p>3 A. I wouldn't characterize it as "a lot." They</p> <p>4 certainly use some.</p> <p>5 Q. Applications like customer relationship</p> <p>6 management software, right?</p> <p>7 MS. GULLEY: Form.</p> <p>8 A. Yes.</p> <p>9 Q. (By Mr. Nemelka) Inventory management;</p> <p>10 correct?</p> <p>11 MS. GULLEY: Form.</p> <p>12 A. Umm, are you referring to parts inventory or</p> <p>13 vehicle inventory?</p> <p>14 MS. GULLEY: Form.</p> <p>15 Q. (By Mr. Nemelka) Both. Vehic- -- let's do</p> <p>16 vehicle inventory first.</p> <p>17 MS. GULLEY: Form.</p> <p>18 A. Yes.</p> <p>19 Q. (By Mr. Nemelka) They use software to help</p> <p>20 them in their service lane; correct?</p> <p>21 MS. GULLEY: Form.</p> <p>22 A. Yes.</p> <p>23 Q. (By Mr. Nemelka) And their marketing efforts;</p> <p>24 correct?</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 30</p> <p>1 MS. GULLEY: Form.</p> <p>2 Q. (By Mr. Nemelka) And these applications need</p> <p>3 access to dealer data to work, right?</p> <p>4 MS. GULLEY: Form.</p> <p>5 A. Correct.</p> <p>6 Q. (By Mr. Nemelka) And above, we saw that you</p> <p>7 publicly told dealers, "You own your data and choose who</p> <p>8 you allow access to it." Remember that?</p> <p>9 A. Yes.</p> <p>10 Q. But that's not quite true, is it, Mr. Brockman?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. I disagree.</p> <p>13 Q. (By Mr. Nemelka) You don't let dealers choose</p> <p>14 who has access to their data, do you?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. They -- the dealers have access to their data,</p> <p>17 you know, on their own. They can access it through</p> <p>18 porting facilities that we have.</p> <p>19 Q. (By Mr. Nemelka) But Reynolds, although it's</p> <p>20 made a lot of exceptions, has taken the position that</p> <p>21 dealer -- dealers can't grant access to their data to,</p> <p>22 for example, independent integrators; is that right?</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. We have a program which is called the Reynolds</p> <p>25 Certified Interface, which is entered into -- whoever</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. You knew that CDK did let dealers use</p> <p>2 independent integrators, right?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. Again, I'm -- I'm not knowledgeable about what</p> <p>5 CDK does or doesn't do in this regard.</p> <p>6 Q. (By Mr. Nemelka) In fact, back in 2007, you</p> <p>7 said that, from a business standpoint, you -- you</p> <p>8 couldn't imagine that that was truly CDK's position,</p> <p>9 right?</p> <p>10 A. I'm sorry. I don't -- I don't remember or</p> <p>11 recall -- can you give me more information?</p> <p>12 (Exhibit 638 was marked for</p> <p>13 identification.)</p> <p>14 Q. (By Mr. Nemelka) I've marked this Exhibit</p> <p>15 638 -- Plaintiff's 638, which I've handed you. It's --</p> <p>16 Automotive News article entitled "Question & Answer:</p> <p>17 Deal puts Brockman in the spotlight," dated February</p> <p>18 9th -- 19th, 2007. Mr. Brockman, do you recognize this</p> <p>19 Automotive News article?</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 A. Not specifically.</p> <p>22 MS. GULLEY: You can take a second to</p> <p>23 review it.</p> <p>24 Q. (By Mr. Nemelka) Did you grant an interview to</p> <p>25 Automotive News around this time, Mr. Brockman?</p>
<p style="text-align: right;">Page 31</p> <p>1 they want to share data with, that covers protections of</p> <p>2 data from a security standpoint.</p> <p>3 Q. (By Mr. Nemelka) You don't let independent</p> <p>4 integrators, like Authenticom, into the RCI program, do</p> <p>5 you?</p> <p>6 A. We do not.</p> <p>7 Q. And so if a dealer wanted to grant access to</p> <p>8 their data to Authenticom, you don't allow that, do you?</p> <p>9 A. They're perfectly free to run reports and --</p> <p>10 and send those reports in electronic form to</p> <p>11 Authenticom.</p> <p>12 Q. But in terms of access to their data in an</p> <p>13 automated way, you don't allow that, do you?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. As far as unattended access, that's correct.</p> <p>16 We do not allow that.</p> <p>17 Q. (By Mr. Nemelka) And that's different from</p> <p>18 what CDK's position once was; correct?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. I'm not familiar with what CDK's historical</p> <p>21 positions have been on this issue.</p> <p>22 Q. (By Mr. Nemelka) You don't know what CDK's</p> <p>23 practices were?</p> <p>24 A. They have lots of different practices. I'm</p> <p>25 not -- I'm not an expert in their -- their practices.</p>	<p style="text-align: right;">Page 33</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. I believe so.</p> <p>3 Q. (By Mr. Nemelka) And this is an article</p> <p>4 reflecting the contents of that interview; correct?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 You haven't offered him the opportunity to</p> <p>7 review it.</p> <p>8 MR. NEMELKA: Andi, please comply with the</p> <p>9 deposition protocol order.</p> <p>10 A. I would like to have a little bit of time to</p> <p>11 read it.</p> <p>12 Q. (By Mr. Nemelka) Sure. Do you recognize,</p> <p>13 though, this is -- reflects an interview that you gave</p> <p>14 to Automotive News, Mr. Brockman?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. If you let me finish reading this back page,</p> <p>17 it's got a lot of information on it.</p> <p>18 Q. (By Mr. Nemelka) Sure. I'm -- I'm only going</p> <p>19 to ask you about one -- about one -- one question and</p> <p>20 answer.</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. Okay. What is your question?</p> <p>23 Q. (By Mr. Nemelka) This reflects an interview --</p> <p>24 the contents of an interview that you gave to Automotive</p> <p>25 News; correct?</p>

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<p style="text-align: right;">Page 34</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. Yes. That was approximately a month and a half</p> <p>3 after the acquisition.</p> <p>4 Q. (By Mr. Nemelka) Correct. And if you turn to</p> <p>5 the second page, the question that -- that Automotive</p> <p>6 asked you, "ADP Dealer Services" -- now, ADP is now CDK;</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 MR. RYAN: Object to form.</p> <p>11 Q. (By Mr. Nemelka) "ADP Dealer Services will</p> <p>12 not" -- excuse me, the ADP that's referred to here was</p> <p>13 -- the dealer services was spun off and became CDK;</p> <p>14 correct?</p> <p>15 MR. RYAN: Objection.</p> <p>16 A. That's my understanding.</p> <p>17 Q. (By Mr. Nemelka) Right. So it says, "ADP</p> <p>18 Dealer Services will not prohibit dealers from providing</p> <p>19 their vendors with a user ID and password to extract</p> <p>20 data." What are your thoughts about that?</p> <p>21 Do you see that question?</p> <p>22 A. Yes.</p> <p>23 Q. And you gave an answer. "I don't understand</p> <p>24 ADP's position. Other than to be obstinate, than to be</p> <p>25 opposite, I can't imagine from a business standpoint</p>	<p style="text-align: right;">Page 36</p> <p>1 I'm not familiar with.</p> <p>2 Q. (By Mr. Nemelka) CDK didn't change that</p> <p>3 position, though, until years later, right?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 UNIDENTIFIED SPEAKER: Mike, one objection</p> <p>6 is good for both defendants, right?</p> <p>7 MR. NEMELKA: Yes.</p> <p>8 UNIDENTIFIED SPEAKER: Okay, thank you.</p> <p>9 THE WITNESS: I'm sorry. Could you repeat</p> <p>10 the question?</p> <p>11 Q. (By Mr. Nemelka) Sure. And CDK didn't change</p> <p>12 that position until years later, though; correct?</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. Again, I've not tracked what ADP has done in</p> <p>15 this regard. My guess is -- and that's there's been a</p> <p>16 series of changes.</p> <p>17 Q. (By Mr. Nemelka) But in the meantime, before</p> <p>18 CDK changed, CDK Reynolds engaged in what you called,</p> <p>19 Mr. Brockman, "the data wars"; isn't that right?</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 A. I've not ever used that term, so I don't know</p> <p>22 who has.</p> <p>23 Q. (By Mr. Nemelka) You've never used the term,</p> <p>24 "data wars"?</p> <p>25 MS. GULLEY: Objection; form.</p>
<p style="text-align: right;">Page 35</p> <p>1 that that's truly their position. And frankly it would</p> <p>2 be my opinion that after awhile they probably change</p> <p>3 that position." Do you see that?</p> <p>4 A. Yes.</p> <p>5 Q. And that accurately reflects what you said?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. Yes.</p> <p>8 Q. (By Mr. Nemelka) And so you knew that CDK's</p> <p>9 position was that they did not stop dealers from</p> <p>10 allowing -- they did not stop dealers from using</p> <p>11 independent integrator's automated access to their data;</p> <p>12 correct?</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. No. I don't agree with that. And that's</p> <p>15 certainly not what I said. What I said is, "I don't</p> <p>16 understand ADP's position. Other than to be obstinate,</p> <p>17 than to be opposite, I can't imagine from a business</p> <p>18 standpoint that that's truly their position. And</p> <p>19 frankly it would be my opinion that after awhile they</p> <p>20 probably change that position."</p> <p>21 Q. (By Mr. Nemelka) And CDK did change their</p> <p>22 position on that, didn't they?</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. It's my understanding that -- that they have</p> <p>25 made changes. Now, exactly what changes they've made,</p>	<p style="text-align: right;">Page 37</p> <p>1 A. No. (Inaudible.)</p> <p>2 Q. (By Mr. Nemelka) Now, CDK not only had an open</p> <p>3 system in the sense that it let dealers use independent</p> <p>4 integrators, but it also had its own independent</p> <p>5 integrators, like DMI and Integra Link!; correct?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. Correct.</p> <p>8 Q. (By Mr. Nemelka) And DMI and Integra</p> <p>9 Link! provided access to the data belonging to Reynolds'</p> <p>10 dealers; correct?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. Yes. They -- they hacked our systems</p> <p>13 extensively.</p> <p>14 Q. (By Mr. Nemelka) And Reynolds' dealers would</p> <p>15 grant DMI and Integra Link! access to their data by</p> <p>16 creating log-in credentials for them, right?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. Yes.</p> <p>19 Q. (By Mr. Nemelka) And then DMI and Integra</p> <p>20 Link! would then provide the dealer data to third-party</p> <p>21 vendors; correct?</p> <p>22 A. Yes.</p> <p>23 Q. Including OEMs, right?</p> <p>24 MS. GULLEY: Form.</p> <p>25 A. Yes.</p>

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<p style="text-align: right;">Page 38</p> <p>1 Q. (By Mr. Nemelka) And when I say "OEMs," I mean</p> <p>2 the car manufacturers, like Ford, Chevy, Toyota, right?</p> <p>3 MS. GULLEY: Form.</p> <p>4 A. That's correct.</p> <p>5 Q. (By Mr. Nemelka) You understand that's what I</p> <p>6 mean, right?</p> <p>7 A. Yes.</p> <p>8 Q. Mr. Brockman, I've handed you what has been</p> <p>9 previously marked as Plaintiff's Exhibit 442. I'll</p> <p>10 describe it and then you can look at it. This is an</p> <p>11 email from you, Bob Brockman, to Ron Workman and Steve</p> <p>12 Anenen, dated Sunday, June 10th, 2007. Do you see that?</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. Yes.</p> <p>15 Q. (By Mr. Nemelka) And to this email, you</p> <p>16 attach -- you made an attachment; correct?</p> <p>17 MS. GULLEY: Form.</p> <p>18 Q. (By Mr. Nemelka) Have you finished reading it,</p> <p>19 Mr. Brockman?</p> <p>20 A. Yes.</p> <p>21 Q. Thank you. So if you look at the email that</p> <p>22 you -- you sent this email to Mr. Workman and</p> <p>23 Mr. Anenen; correct?</p> <p>24 A. Yes.</p> <p>25 Q. Steve Anenen was the CEO of CDK?</p>	<p style="text-align: right;">Page 40</p> <p>1 A. No. It's not the only time, but it -- it is --</p> <p>2 to characterize it as something that happens a lot, it's</p> <p>3 not. It's rare. And this is certainly the first time</p> <p>4 that I had ever met Steve Anenen.</p> <p>5 Q. And then you write -- well, you said, "As I</p> <p>6 said in our initial meeting on the subject at NADA, I</p> <p>7 believe that there some attractive opportunities here</p> <p>8 that in the longer term can be quite significant." Do</p> <p>9 you see that?</p> <p>10 MS. GULLEY: Objection; form.</p> <p>11 A. Yes.</p> <p>12 Q. (By Mr. Nemelka) So let's turn the page to</p> <p>13 the document that you attached. If you could go to the</p> <p>14 last section on Data Services, on the second page. And</p> <p>15 you have -- having read this -- this attachment, this</p> <p>16 was proposing a joint venture between CDK and Reynolds</p> <p>17 for the service of extracting data from dealership</p> <p>18 systems; correct?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 Q. (By Mr. Nemelka) Mr. Brockman?</p> <p>21 A. Yes.</p> <p>22 Q. And ADP, meaning CDK, would contribute the DMI</p> <p>23 business that we just discussed; correct?</p> <p>24 MS. GULLEY: Form.</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 39</p> <p>1 A. That's correct.</p> <p>2 Q. And Ron Workman was a senior vice-president</p> <p>3 there?</p> <p>4 A. Yes.</p> <p>5 Q. And in the third -- third line down, you write,</p> <p>6 "Please see the attached thoughts regarding our mutual</p> <p>7 opportunities." Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. And then you said -- then you write, "As I said</p> <p>10 at our initial meeting on the subject at NADA" -- what</p> <p>11 is NADA?</p> <p>12 A. It's the National Auto Dealers Association.</p> <p>13 Q. And what does that mean, "at NADA"?</p> <p>14 A. There's an annual convention and trade show.</p> <p>15 Q. Is it once a year?</p> <p>16 A. Yes.</p> <p>17 Q. And at this convention, you -- you met with</p> <p>18 Mr. Workman?</p> <p>19 A. Yes.</p> <p>20 Q. And at these annual conventions, you frequently</p> <p>21 meet -- meet with executives from CDK; correct?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. No.</p> <p>24 Q. (By Mr. Nemelka) Is this the only time you</p> <p>25 ever met with a CDK executive at NADA?</p>	<p style="text-align: right;">Page 41</p> <p>1 Q. (By Mr. Nemelka) And then Reynolds would</p> <p>2 contribute its technology for accessing the Reynolds DMS</p> <p>3 systems; correct?</p> <p>4 MS. GULLEY: Form.</p> <p>5 A. That's what was under consideration, but it --</p> <p>6 I think it's -- it's correct to add that -- that this</p> <p>7 was a proposed process that never occurred. And</p> <p>8 further -- on further examination, subsequent to this, I</p> <p>9 decided that it would be a wrong thing to do.</p> <p>10 Q. (By Mr. Nemelka) Why would it be a wrong thing</p> <p>11 to do?</p> <p>12 A. I don't believe that accessing dealership</p> <p>13 systems to extract data in the manner that DMI and that</p> <p>14 their other entities were doing it to be proper.</p> <p>15 Q. But at least here, you had proposed talking</p> <p>16 about forming a joint venture to do that; correct?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. What I'm doing is -- is I'm -- I'm commenting</p> <p>19 on -- on their proposals.</p> <p>20 Q. (By Mr. Nemelka) You described it as</p> <p>21 an attractive opportunity that could be quite</p> <p>22 significant in your email, didn't you?</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. On further examination, you know, that was not</p> <p>25 the case.</p>

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<p style="text-align: right;">Page 42</p> <p>1 Q. (By Mr. Nemelka) And would other competitors 2 to this data services joint venture be allowed to access 3 the data for Reynolds and -- and CDK dealers, or only 4 this joint venture? 5 MS. GULLEY: Objection; form. 6 A. Again, this was an early-on idea which was not 7 followed up on. Specifically, we did not do anything in 8 this regard. 9 Q. (By Mr. Nemelka) The thought was, though, that 10 only the Reynolds and CDK joint venture would be able to 11 provide data access to Reynolds and CDK, not others; 12 correct? 13 MS. GULLEY: Objection; form. 14 A. That -- that was the -- the original proposal 15 from CDK. 16 Q. (By Mr. Nemelka) So competitors like 17 Authenticom would not be able to compete with this joint 18 venture, right? 19 MS. GULLEY: Objection; form. 20 A. From a thought standpoint, this -- this project 21 never got that far. 22 Q. (By Mr. Nemelka) But you said that was the 23 original conception that CDK -- 24 MS. GULLEY: Objection -- 25 MR. NEMELKA: Let me finish my question,</p>	<p style="text-align: right;">Page 44</p> <p>1 right? 2 MS. GULLEY: Objection; form. 3 A. Again, that was in response to their proposal. 4 And again -- I repeat again, this project went nowhere. 5 (Exhibit 639 was marked for 6 identification.) 7 Q. (By Mr. Nemelka) I've handed you Plaintiff's 8 Exhibit 639. And, Mr. Brockman, I'll represent to you 9 that the metadata for this document states that, as 10 produced by -- by your counsel, that this came from your 11 custodial file and that it was -- date last modified was 12 July 29th, 2012. And the file name is "ADP Data 13 Agreement Talking Points." Okay? 14 MS. GULLEY: Objection; form. 15 Q. (By Mr. Nemelka) Did you hear that, 16 Mr. Brockman? 17 A. Yes. 18 Q. Okay. Do you recognize these as talking points 19 that you created for ADP Data Agreement? 20 MS. GULLEY: Objection; form. 21 A. Yes. These were talking points that would take 22 place between myself and ADP. 23 Q. (By Mr. Nemelka) And who at ADP? 24 A. Steve Anenen. 25 Q. Is this a phone call?</p>
<p style="text-align: right;">Page 43</p> <p>1 Andi. 2 Q. (By Mr. Nemelka) You said that was the 3 original proposal from CDK, though, right? 4 MS. GULLEY: Objection; form. 5 A. Again, there was -- there was another document, 6 which I don't have and I don't know whether it exists, 7 but it's -- it certainly did exist, where what ADP was 8 proposing was -- was laid out. And this was an initial 9 response. Again -- I'll repeat again, this project did 10 not go anywhere. It did not happen. 11 Q. (By Mr. Nemelka) At this time, were you -- 12 when you were considering this joint venture, DMI was 13 extracting data for vendors from Reynolds' DMS; correct? 14 MS. GULLEY: Objection; form. 15 A. At this particular point in time, this -- this 16 was approximately seven months after the acquisition 17 of -- of a very, very large company. It was extremely 18 busy in all kinds of operational details, and for me to 19 know what was going on with Reynolds systems and outside 20 third parties at that point in time was impossible. The 21 best I could have would be, you know, hazy knowledge, 22 but not, you know, absolute knowledge. 23 Q. (By Mr. Nemelka) Well, here you wrote that CDK 24 would contribute the DMI business to this new co-entity 25 along with the technology for accessing DMS systems,</p>	<p style="text-align: right;">Page 45</p> <p>1 MS. GULLEY: Objection; form. 2 A. Yes. 3 Q. (By Mr. Nemelka) And was it a phone call 4 around the time of July 29th, 2012? 5 MS. GULLEY: Form. 6 A. I don't know what date -- I remember creating 7 this document, thinking that a phone call was going to 8 be imminent. It was not imminent. It was at some 9 considerable length of time afterwards. 10 Q. (By Mr. Nemelka) "Considerable length of 11 time," meaning a few weeks or months? 12 A. Months. 13 Q. A few months? And these are the talking points 14 that you prepared for that phone conversation with 15 Mr. Anenen? 16 A. Yes. 17 Q. And did you deliver these talking points? 18 MS. GULLEY: Form. 19 A. I'm not sure what all points were actually 20 covered. These were the points that I wanted to cover. 21 Whether I got them all done or not, I -- I don't think I 22 got them quite done. 23 Q. (By Mr. Nemelka) I just want to ask you about 24 a few of the bullet points here, Mr. Brockman. The 25 first one you say, "Unattended remote access to Reynolds</p>

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<p style="text-align: right;">Page 46</p> <p>1 systems is going to cease." Do you see that?</p> <p>2 A. Yes.</p> <p>3 Q. So 2012, unattended remote access was still</p> <p>4 happening on the Reynolds system, right?</p> <p>5 A. That's correct.</p> <p>6 Q. Including by CDK; correct?</p> <p>7 A. That's right. CDK -- or CDK subsidiaries were</p> <p>8 identified as some of the most, you know -- they were</p> <p>9 the worst hackers out there. And -- and this first</p> <p>10 line, "Unattended remote access to Reynolds systems is</p> <p>11 going to cease," that was not a pleasant statement.</p> <p>12 That was a -- a statement of fact. The fact was pretty</p> <p>13 ugly.</p> <p>14 Q. And -- and the data agreement, the document is</p> <p>15 titled "Data Agreement." And what was the data</p> <p>16 agreement that you envisioned entering into with CDK?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. The -- the data agreement involved a -- a</p> <p>19 phased shutdown, as opposed to an abrupt stop.</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 Q. (By Mr. Nemelka) And is this a call that was</p> <p>22 initiated by you, or Mr. Anenen?</p> <p>23 A. I -- I had requested a call. Whether he called</p> <p>24 me or I called him, I don't recall.</p> <p>25 Q. You requested the call?</p>	<p style="text-align: right;">Page 48</p> <p>1 statement.</p> <p>2 Q. And what was his general response to your</p> <p>3 proposal here?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. I would say it was -- it didn't make a lot of</p> <p>6 progress. You know, Steve Anenen is a very, very nice</p> <p>7 guy, and he's a person that is unlikely to say no, you</p> <p>8 know. He's just -- he's not that kind of person. But</p> <p>9 he did not make a positive response.</p> <p>10 Q. (By Mr. Nemelka) Meaning he said that CDK</p> <p>11 would continue to access the Reynolds system?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. No. He did not answer that specific issue.</p> <p>14 Again, he's a very nice guy.</p> <p>15 Q. (By Mr. Nemelka) Did he give you any</p> <p>16 indication one way or the other whether he was</p> <p>17 interested in engaging in the discussions further, after</p> <p>18 this phone call?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. At -- at that point, he did not.</p> <p>21 Q. (By Mr. Nemelka) At this time, Reynolds was</p> <p>22 using Authenticom for -- strike that.</p> <p>23 Reynolds has its own software application,</p> <p>24 separate from the DMS; correct?</p> <p>25 A. I wouldn't say separate from the DMS, but</p>
<p style="text-align: right;">Page 47</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. Yes.</p> <p>3 Q. (By Mr. Nemelka) And this is the first time</p> <p>4 that you had discussed with Mr. Anenen having CDK stop</p> <p>5 accessing the Reynolds systems?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. I don't recall whether or not it was the first</p> <p>8 time or not.</p> <p>9 Q. (By Mr. Nemelka) And what did Mr. Anenen say</p> <p>10 in response?</p> <p>11 A. It was a rather unusual call. There was</p> <p>12 about -- it was an hour-long call, and there was about</p> <p>13 15 minutes' worth of this active discussion and then 45</p> <p>14 minutes of -- of just unproductive conversation.</p> <p>15 Q. What does that -- what -- why was it</p> <p>16 unproductive?</p> <p>17 A. Mr. Anenen did not want to address the issues.</p> <p>18 He wanted to talk about other things.</p> <p>19 Q. So on these topics, the call lasted about 15</p> <p>20 minutes?</p> <p>21 A. Uh-huh. (Witness answers affirmatively.)</p> <p>22 Q. And what -- what did he respond -- how did he</p> <p>23 respond when you told him that unattended remote access</p> <p>24 to Reynolds systems is going to cease?</p> <p>25 A. He didn't make a specific reply to that</p>	<p style="text-align: right;">Page 49</p> <p>1 there's some things that we do that are not totally</p> <p>2 related to our own DMS.</p> <p>3 Q. Right. Software solutions that you -- that</p> <p>4 dealers use, separate from the DMS; correct?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 A. It's a very, very small, you know, part of our</p> <p>7 business.</p> <p>8 Q. (By Mr. Nemelka) And at this time, Reynolds</p> <p>9 was using Authenticom for the data needs for those</p> <p>10 applications; correct?</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. Yes. Again, the particular data that we're</p> <p>13 talking about has to do with service reminder cards,</p> <p>14 principally, and it's a very small thing. And we use</p> <p>15 Authenticom from an expediency standpoint to, you know,</p> <p>16 get us the data.</p> <p>17 Q. (By Mr. Nemelka) And this was data from CDK</p> <p>18 DMS; correct?</p> <p>19 A. Yes.</p> <p>20 Q. And if you go to the next page, you have a --</p> <p>21 you have a -- a bullet point here where it starts with</p> <p>22 "batch type data." Do you see that?</p> <p>23 A. Yes.</p> <p>24 Q. It says, "Batch type data that Authenticom (or</p> <p>25 some other Reynolds agent)" -- so let me stop there. So</p>

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<p style="text-align: right;">Page 50</p> <p>1 you considered Authenticom a Reynolds agent in 2 collecting the data; is that right? 3 A. I don't -- 4 MS. GULLEY: Objection; form. 5 A. I don't know if we would consider Authenticom 6 an agent. They -- they provided a service. 7 Q. (By Mr. Nemelka) You say, "Batch type data 8 that Authenticom (or some other Reynolds agent) collects 9 from ADP sites for Reynolds to use in marketing programs 10 that it sells to the dealer would require that this data 11 is used for no other purpose." Do you see that? 12 MS. GULLEY: Objection; form. 13 A. Yes. 14 Q. (By Mr. Nemelka) So you envisioned that 15 Reynolds would continue to use Authenticom even after 16 this proposed data agreement with CDK; is that right? 17 MS. GULLEY: Objection; form. 18 A. I don't think that, you know, I would 19 characterize this paragraph in that way. There's no 20 suggestion here it's long term. Anytime that you have a 21 process set up for a collection of data, to tear it up, 22 you know, involves some effort. And what we're talking 23 about that's described in this document here, there's 24 things to be done short term. There is no implication 25 here that long term -- you know, longer than what the</p>	<p style="text-align: right;">Page 52</p> <p>1 A. Yes. 2 Q. (By Mr. Nemelka) What did you mean by that? 3 MS. GULLEY: Objection; form. 4 A. What the focus in this particular passage is -- 5 and that's that we'd want to have a contract directly 6 with the -- the owner of the data. 7 Q. (By Mr. Nemelka) Well, the contract with the 8 owner of data? That would be the dealer, right? 9 MS. GULLEY: Objection; form. 10 A. Correct. 11 Q. (By Mr. Nemelka) And so you would consider 12 those who go and collect the data on your behalf as your 13 agents; correct? 14 MS. GULLEY: Objection; form. 15 A. I think what -- what we're talking about here 16 is -- and that's that, you know, we don't use agents. 17 What we want to do is we want to have direct contracts 18 with the collector of the data and also the owner of the 19 data. 20 Q. (By Mr. Nemelka) Well, what you write here is 21 that "The use of a 3rd party acting under contract as an 22 agent of ADP or Reynolds is not an issue as long as the 23 specific RCI agreement is directly between us." Do you 24 see that? 25 MS. GULLEY: Objection; form.</p>
<p style="text-align: right;">Page 51</p> <p>1 immediate, you know, time frame would be -- that we 2 would continue to use Authenticom. 3 Q. (By Mr. Nemelka) This is 2012, right? 4 MS. GULLEY: Objection; form. 5 A. Yeah. 6 Q. (By Mr. Nemelka) Reynolds continued to use 7 Authenticom clear to -- through 2017, right? 8 MS. GULLEY: Objection; form. 9 A. I'm not aware of -- of how long that -- that 10 occurred. 11 Q. (By Mr. Nemelka) Certainly, you know, for 12 years after this, Reynolds continued to use Authenticom, 13 right? 14 MS. GULLEY: Objection; form. 15 A. Again, I'm not aware of what's going on. 16 Q. (By Mr. Nemelka) All right, well -- 17 A. In -- in the -- in that particular regard. 18 Q. We have some documents on that. 19 MS. GULLEY: Objection; to the sidebar. 20 Q. (By Mr. Nemelka) You said "agents." You say 21 here, "The use of a 3rd-party acting under contract as 22 an agent of ADP or Reynolds is not an issue as long as 23 the specific RCI agreement is directly between us." Do 24 you see that? 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 53</p> <p>1 A. Well, I -- I think that's -- that states 2 clearly that we -- the agreement we want is -- we want 3 one directly between us and -- and not, you know, 4 with any use of an agent. 5 Q. (By Mr. Nemelka) And "an agent" being those 6 that go and collect data on your behalf; correct? 7 MS. GULLEY: No. 8 Objection; form. I'm sorry. It was -- I'm 9 sorry. 10 MR. NEMELKA: That's improper to answer the 11 question. I asked the witness. 12 MS. GULLEY: I'm so sorry, Mike. 13 MR. NEMELKA: It's okay. 14 MS. GULLEY: It was not -- not intentional. 15 UNIDENTIFIED: Same objection. 16 MR. NEMELKA: We'll just leave the record 17 like that. 18 MS. GULLEY: Well, he can answer the 19 question. 20 MR. NEMELKA: Sure. 21 Q. (By Mr. Nemelka) Do you need me to repeat the 22 question, Mr. Brockman? 23 A. I need to reread this. 24 Q. My simple question was -- is that you have here 25 a section called "Use of Agents." You say, "The use of</p>

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<p style="text-align: right;">Page 54</p> <p>1 a 3rd party acting under contract as an agent of ADP or 2 Reynolds is not an issue as long as the specific RCI 3 agreement is directly between us -- either of us would 4 take responsibility for their agents." Do you see that? 5 MS. GULLEY: Form. 6 A. Yes. 7 Q. (By Mr. Nemelka) And my question is that the 8 agents that you're referring to are those that would go 9 and collect the data on your behalf; correct? 10 A. I think I'm referring to DMI, Integra. 11 Q. Okay. Did you know how Authenticom accessed 12 data on a CDK system? 13 MS. GULLEY: Objection; form. 14 A. No. 15 Q. (By Mr. Nemelka) Did you know that they were 16 issued log-in credentials, just like DMI and Integra 17 Link! were for Reynolds? 18 MS. GULLEY: Objection; form. 19 A. I'm not aware of that. 20 MS. GULLEY: Are you at a stopping point, 21 Mike? 22 MR. NEMELKA: Sure. 23 MS. GULLEY: Let's take a break. 24 THE VIDEOGRAPHER: The time is 10:25 a.m., 25 and we're off the record.</p>	<p style="text-align: right;">Page 56</p> <p>1 qualified as -- as temporary access. I think it's 2 important that, from a transitional standpoint, that's 3 where that's been used. 4 Q. (By Mr. Nemelka) And it was used with CDK's 5 access to the Reynolds system; correct? 6 MS. GULLEY: Objection; form. 7 A. The answer to that is no. The -- the only time 8 that that was used is -- or that process was used was in 9 the situation where everybody's agreed that they're 10 going to stop hacking. They're going to stop being 11 bandits. They're going to get straight. And, you know, 12 we've seen fit to facilitate an orderly stand-down, in 13 which case, you know, we issued user IDs that were 14 temporary in nature. 15 Q. (By Mr. Nemelka) That was in 2000 -- 16 MS. GULLEY: Are you finished Mr. Brockman? 17 THE WITNESS: No. 18 A. That's completely different than, you know, 19 what my connotation of whitelist is. Whitelist, in my 20 terminology, has to do with email. 21 I have a lot of problems with spam email. 22 And one of the ways that you deal with spam email is -- 23 is you decide what select group of people you'll accept 24 email addresses from, and you -- you create a list. And 25 that's what's called a "whitelist." You know, that's --</p>
<p style="text-align: right;">Page 55</p> <p>1 (Short recess 10:25 to 10:50 a.m.) 2 THE VIDEOGRAPHER: The time is 10:50 a.m. 3 We're back on the record. 4 EXAMINATION (Continuing) 5 BY MR. NEMELKA: 6 Q. Mr. Brockman, have you heard of the phrase 7 "whitelisting"? 8 MS. GULLEY: Objection; form. 9 A. In -- in recent years, yes. 10 Q. (By Mr. Nemelka) The -- where -- as I think of 11 the term "whitelisting," that's where Reynolds issues a 12 protected user ID that will be exempt from Reynolds' 13 security processes. 14 MS. GULLEY: Object- -- hold on. Let him 15 finish. 16 Q. (By Mr. Nemelka) Is that -- is that how you 17 associate the term? 18 MS. GULLEY: Objection; form. 19 A. No. 20 Q. (By Mr. Nemelka) Reynolds did allow the 21 feeding of data through protected user IDs that were 22 exempt from the secur- -- Reynolds' security processes, 23 right? 24 MS. GULLEY: Objection; form. 25 A. I would say the answer to that is -- is</p>	<p style="text-align: right;">Page 57</p> <p>1 that's my knowledge of the use of the term. 2 Q. (By Mr. Nemelka) So where Reynolds issued 3 these protected user IDs for CDK, that was -- that you 4 were referring to, was that in connection with the 2015 5 wind-down agreement? 6 MS. GULLEY: Form. 7 A. That was one of the factors in that wind-down 8 agreement. It was -- again, first and foremost, that 9 they're -- they're going to stop hacking. They're going 10 to stop being bandits. And this is a temporary 11 situation, you know, where it's a wind-down. 12 Q. (By Mr. Nemelka) Reynolds did it for CDK long 13 before 2015, didn't it? 14 MS. GULLEY: Objection; form. 15 A. Not to my knowledge. 16 Q. (By Mr. Nemelka) Okay. I've handed you 17 Exhibit -- Plaintiff's Exhibit 640. 18 (Exhibit 640 was marked for 19 identification.) 20 Q. (By Mr. Nemelka) And I'll describe it and then 21 you can read it. It's an email from you, Mr. Brockman, 22 dated Friday, February 20, 2013, to Ron Lamb. I'll give 23 you a minute to read it. 24 A. I'm familiar with this issue here. 25 Q. Are you finished reading --</p>

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<p style="text-align: right;">Page 58</p> <p>1 A. Let -- let me finish.</p> <p>2 We have been -- you know, the war with the</p> <p>3 bandits and the hackers, it's been going on for a long</p> <p>4 time. And what we've done over the years is -- and</p> <p>5 that's that we've created barriers. And what happens</p> <p>6 is, in this, is sometimes the barrier blocks somebody</p> <p>7 that is -- is causing them a great deal of problem. And</p> <p>8 what we'll do is -- and that's on a temporary basis</p> <p>9 while we get the -- you know, the issue -- specific</p> <p>10 issue sorted out, we will issue a user ID temporarily.</p> <p>11 And I think that that's reflected in -- it</p> <p>12 reads, "Obviously it is not getting communicated</p> <p>13 correctly -- or the dealership person is not listening</p> <p>14 to the description of the circumstances around the</p> <p>15 situation -- which is that a formal agreement has been</p> <p>16 reached whereby entrance into the RCI world by the OEM</p> <p>17 [involved] will begin.</p> <p>18 "Part of this [that] agreement is to allow</p> <p>19 the feeding of data by 'bandit procedures' to continue</p> <p>20 to exist in [during] the transition period." And that's</p> <p>21 what it's all about.</p> <p>22 Q. Will you continue to read that last sentence of</p> <p>23 your email?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. "The new USER-ID is a special one that we know</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. -- "about setting up user IDs for both</p> <p>2 Integralink and DMI to allow non-regulated access to our</p> <p>3 Reynolds system."</p> <p>4 Then he goes on, "I find it extremely</p> <p>5 hypocritical that for the better part of 3-4 years</p> <p>6 Reynolds has pretty much pissed off a large majority of</p> <p>7 your customer with 'security' enhancements that locked</p> <p>8 out these companies in one way or another. Now all of a</p> <p>9 sudden, Reynolds is calling me to set up exactly what we</p> <p>10 were told was a security problem. So my questions is</p> <p>11 how is this still not a security problem."</p> <p>12 Do you see that?</p> <p>13 MS. GULLEY: Form.</p> <p>14 Q. My question is: Do you see that?</p> <p>15 MS. GULLEY: Form.</p> <p>16 A. I see, you know, what you have read.</p> <p>17 Q. (By Mr. Nemelka) Did you -- do you agree with</p> <p>18 the dealer that it's hypocritical for Reynolds to be</p> <p>19 creating these protected user IDs that are exempt from</p> <p>20 its security processes?</p> <p>21 MS. GULLEY: Form.</p> <p>22 A. No. I -- I disagree with that statement.</p> <p>23 MS. GULLEY: Are you --</p> <p>24 A. And the characterization that this particular</p> <p>25 writer, this Christopher K. Upright, that we have,</p>
<p style="text-align: right;">Page 59</p> <p>1 about -- and there will be exempt from the security</p> <p>2 processes."</p> <p>3 What's not, clearly, part of that sentence</p> <p>4 is "This is a temporary transition."</p> <p>5 Q. (By Mr. Nemelka) Mr. Brockman, this was user</p> <p>6 IDs that were for both Integra Link! and DMI, correct?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. Yes. I believe -- I believe, in this</p> <p>9 particular situation, they were the folks that were</p> <p>10 described -- which they're our -- our worst hackers.</p> <p>11 Q. (By Mr. Nemelka) And this is in 2013; correct?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. Yes. That's -- that's the date.</p> <p>14 Q. (By Mr. Nemelka) And the bottom email is an</p> <p>15 email from a dealership to Reynolds, right?</p> <p>16 MS. GULLEY: Objection; form.</p> <p>17 A. Yes.</p> <p>18 Q. (By Mr. Nemelka) Sunset -- excuse me. Sorry.</p> <p>19 A. That's correct. The email is to Reynolds, from</p> <p>20 a customer of Reynolds.</p> <p>21 Q. And the customer says, "I have now received</p> <p>22 three calls from the TAC" -- what is the TAC?</p> <p>23 A. That stands for Technical Assistance Center.</p> <p>24 Q. Of Reynolds?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 61</p> <p>1 quote, angered a number of our customers over the last</p> <p>2 three or four years, you know, that's way too strong of</p> <p>3 a characterization. There's no question there's been</p> <p>4 inconveniences as we have, you know, ratcheted down, you</p> <p>5 know, hackers' access. And that's exactly what happened</p> <p>6 here, and we -- we obviously dealt with it.</p> <p>7 Q. Dealers left Reynolds over this issue of data</p> <p>8 access, didn't they?</p> <p>9 A. There has been some, but a very small minority.</p> <p>10 Q. And they transitioned, during this time period,</p> <p>11 to CDK over those issues; correct?</p> <p>12 MS. GULLEY: Objection; form.</p> <p>13 A. I don't have any, you know -- you know,</p> <p>14 knowledge of -- of the -- you know, that correlates</p> <p>15 security issues to, you know, number of dealerships that</p> <p>16 departed. I just don't have that information, if it</p> <p>17 exists.</p> <p>18 Q. (By Mr. Nemelka) Reynolds keeps track of</p> <p>19 reasons that dealers leave it, don't -- doesn't it?</p> <p>20 A. To the extent that we can ascertain, you know,</p> <p>21 why, we do. You know, in many, many cases, we can't.</p> <p>22 Q. And you're aware that, in tracking, that there</p> <p>23 were many instances -- there were instances where</p> <p>24 dealers said they were leaving Reynolds for CDK because</p> <p>25 of the data access policies, right?</p>

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<p style="text-align: right;">Page 62</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. I would say that there -- there are some</p> <p>3 dealers that have left us over data access, but -- but,</p> <p>4 this is, you know, a very tiny minority.</p> <p>5 Q. (By Mr. Nemelka) In your email about the user</p> <p>6 IDs being exempt from security processes, what does</p> <p>7 "exempt" mean?</p> <p>8 MS. GULLEY: Objection; form.</p> <p>9 A. I'm sorry. I'm not understanding.</p> <p>10 Q. (By Mr. Nemelka) You wrote, "The new USER-ID</p> <p>11 is a special one that we know about -- and they" -- "and</p> <p>12 there will exempt from the security processes." What</p> <p>13 does that "exempt" mean?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. I think it means what it says.</p> <p>16 Q. (By Mr. Nemelka) Security processes will not</p> <p>17 apply to those protected user IDs, right?</p> <p>18 MS. GULLEY: Objection; form.</p> <p>19 A. The -- the specific security issue that is</p> <p>20 causing this particular customer unhappiness, that's</p> <p>21 what the new user ID will -- will exempt them from.</p> <p>22 Until such time as -- as we have our -- our piece of</p> <p>23 code -- which is actually, you know, performing the</p> <p>24 security check a little too aggressively -- until that's</p> <p>25 corrected.</p>	<p style="text-align: right;">Page 64</p> <p>1 to Mr. Schaefer where you write on November 25th, 2013?</p> <p>2 MS. GULLEY: Objection; form.</p> <p>3 A. Sorry. If you will give me a moment to --</p> <p>4 Q. (By Mr. Nemelka) Let me -- I'll let you review</p> <p>5 the document. I just want -- I just want to point out</p> <p>6 your email to Mr. Schaefer, if I could.</p> <p>7 A. Please, let me read the document.</p> <p>8 Q. Okay.</p> <p>9 A. Again, I --</p> <p>10 Q. Have you finished reading them?</p> <p>11 A. Yes.</p> <p>12 Q. Okay, thank you.</p> <p>13 A. Please repeat the question.</p> <p>14 Q. Yes. So you sent an email -- it's the second</p> <p>15 from the top -- you sent an email dated November 25,</p> <p>16 2013 to Robert Schaefer where you write, "Bob, you have</p> <p>17 authority to pursue discussions with ADP on these</p> <p>18 subjects as per our conversation." Do you see that?</p> <p>19 A. Yes.</p> <p>20 Q. So this is you giving Mr. Schaefer -- who is a</p> <p>21 Reynolds executive; correct?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. That is correct.</p> <p>24 Q. (By Mr. Nemelka) -- authority to talk to CDK</p> <p>25 on the topics outlined in the email below. Right?</p>
<p style="text-align: right;">Page 63</p> <p>1 Q. (By Mr. Nemelka) You can set that aside. Oh,</p> <p>2 one -- real quick. The access that DMI and Integra</p> <p>3 Link! had to the Reynolds system was automated access;</p> <p>4 correct?</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 Q. (By Mr. Nemelka) That was protected?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. Again, the -- the user ID, you know, gave the</p> <p>9 ability to -- for, you know, a person to log on to the</p> <p>10 system. Exactly, you know, what they did with that, I</p> <p>11 can't tell from this.</p> <p>12 Q. (By Mr. Nemelka) You weren't -- you're not</p> <p>13 aware that -- that -- that protected user IDs for CDK</p> <p>14 were for data access in an automated way?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. I'm not aware of that.</p> <p>17 Q. (By Mr. Nemelka) Okay. You can set that</p> <p>18 aside.</p> <p>19 (Exhibit 641 was marked for</p> <p>20 identification.)</p> <p>21 Q. (By Mr. Nemelka) I've handed you Plaintiff's</p> <p>22 Exhibit 641, which is an email -- the top email is an</p> <p>23 email from Bob Schaefer to Howard Gardner at CDK</p> <p>24 forwarding an email from you, Mr. Brockman, to Robert</p> <p>25 Schaefer on November 25th, 2013. Do you see your email</p>	<p style="text-align: right;">Page 65</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. Yes. That -- that is correct.</p> <p>3 Q. (By Mr. Nemelka) And in the email that -- it's</p> <p>4 an email that Howard Gardner sent to Mr. Schaefer. Now,</p> <p>5 Howard Gardner is the CDK executive, right?</p> <p>6 A. I'm aware of the fact that he works for CDK.</p> <p>7 Whether or not he's considered an executive, I'm not --</p> <p>8 I'm not familiar.</p> <p>9 Q. And here -- the first bullet point he says,</p> <p>10 "Bob Brockman would like to work toward an agreement</p> <p>11 with ADP, and he has granted you the authority to pursue</p> <p>12 discussions on a general framework with ADP." Do you</p> <p>13 see that?</p> <p>14 MS. GULLEY: Objection; form.</p> <p>15 A. Yes, I do.</p> <p>16 Q. (By Mr. Nemelka) And that's the authority that</p> <p>17 you have been granting Mr. -- that you granted</p> <p>18 Mr. Schaefer, right?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. Yes. I gave him authority to discuss with ADP.</p> <p>21 He does not have -- this does not give him permission to</p> <p>22 actually do anything. It's permission to talk about</p> <p>23 things.</p> <p>24 Q. (By Mr. Nemelka) Right. And one of the -- if</p> <p>25 you turn to the next page -- one of the things that --</p>

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<p style="text-align: right;">Page 66</p> <p>1 permission to talk about is for OEMs -- if you will 2 look, "Reynolds & Reynolds and DMI will formalize and 3 extend our collaborative approach to helping OEMs 4 transition to a 'protected program' to prevent future 5 disruption of data access." Do you see that? 6 MS. GULLEY: Form. 7 A. Yes. And I think it's important to point out 8 that what's happening here is -- and that's that ADP's 9 two subsidiaries are the worst of the hackers and 10 bandits -- 11 Q. Right. 12 A. -- that we face. And the efforts that we're -- 13 we're pursuing here is -- and that's a continued 14 improvement of security by -- by, you know -- you know, 15 planned stand-downs. 16 Q. The next one, you say -- or here is "Non-OEM 17 Third Parties." So that would be, not car 18 manufacturers, but the other applications you referred 19 to, like, customer relationship management and so forth, 20 right? 21 MS. GULLEY: Form. 22 Q. (By Mr. Nemelka) For the non- -- No. 2, 23 "Non-OEM Third Parties"? 24 MS. GULLEY: Form. 25 A. Okay. We're now down to No. 2?</p>	<p style="text-align: right;">Page 68</p> <p>1 A. Yes. That would be a proper characterization. 2 Q. (By Mr. Nemelka) And it says here, R&I -- 3 "R&R" -- Reynolds -- "and DMI will jointly create and 4 launch a 'protected program' that DMI will offer to its 5 existing and prospective non-OEM clients." Do you see 6 that? 7 MS. GULLEY: Objection; form. 8 A. Yes. I see that. 9 Q. (By Mr. Nemelka) So that -- DMI would have 10 protected access to data that Reynolds' dealers have, 11 not just for OEMs, but for non-OEM third parties, too; 12 correct? 13 MS. GULLEY: Objection; form. 14 A. This is -- this is what ADP was asking for, and 15 I -- I think that, probably after this first 16 conversation, that they were brought to understand that 17 we were -- that -- that we were only going to allow 18 access for collection of data to go to specific 19 customers, not for Reynolds and DMI to, basically, 20 continue business as usual. 21 Q. (By Mr. Nemelka) And then Point 4, 22 "Exclusivity." Here there's a sentence that says, 23 Reynolds is -- "R&R is open to the R&R 'protected 24 programs' becoming an exclusive offering by DMI." Do 25 you see that?</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. (By Mr. Nemelka) "Non-OEM Third Parties." Do 2 you see that? 3 Mr. Brockman, do you see No. 2, "Non-OEM 4 Third Parties"? 5 A. Yes. I'm -- I'm trying to reabsorb that 6 paragraph. That's a very -- that's kind of a long 7 run-on paragraph. 8 Q. Well -- if I could just -- that's one reason 9 why you're -- you know -- I'd give you the opportunity 10 to read the whole document, but I ask you about specific 11 sections. It's more efficient if I could point you to 12 the sections, then I give you a chance to read the 13 whole -- whole thing. Now -- you know, reading the 14 whole thing really does eat up time -- of our limited 15 time here. 16 MS. GULLEY: I object to the form and 17 to the sidebar -- 18 MR. NEMELKA: That's fine. 19 MS. GULLEY: -- and to the instruction as 20 improper. 21 MR. NEMELKA: Okay. 22 Q. (By Mr. Nemelka) So No. 2. "Non-OEM Third 23 Parties." Non-OEM third parties would be non-car 24 manufacturers. They're parties, right? 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 69</p> <p>1 MS. GULLEY: Objection; form. 2 A. Again, the -- this is Howard Gardner's wish 3 list. 4 Q. (By Mr. Nemelka) You gave Mr. Schaefer 5 authority to pursue these discussions, right, on these 6 topics? 7 MS. GULLEY: Objection; form. 8 A. Yeah. And "discussions" does not mean yes to 9 everything that -- that is being requested by Howard 10 Gardner. From a background standpoint, you need to 11 understand who Howard Gardner is. 12 Howard Gardner's baby is Digital Motor 13 Works, DMI. Again, one of the worst hackers and bandits 14 out there. There's no question what -- you know, 15 there's items in this list of things that he would like 16 to have continue. But we have no intention of -- of 17 allowing that to continue to happen. 18 Q. (By Mr. Nemelka) One of the topics that you 19 gave Mr. Schaefer authority to pursue discussions with 20 ADP on had to do with market message about -- market 21 messaging about data security, right? 22 MS. GULLEY: Objection; form. 23 A. I disagree. I -- I don't -- I don't think 24 that -- that that's the case. 25 Q. (By Mr. Nemelka) If you look at the last</p>

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<p style="text-align: right;">Page 70</p> <p>1 section here, "Market Messaging -- Data Security." Do 2 you see that? 3 MS. GULLEY: Objection; form. 4 A. Again, this is -- this is Howard Gardner's wish 5 list. 6 Q. (By Mr. Nemelka) I'm simply reading your 7 email, Mr. Brockman. You just wrote to Mr. Schaefer, 8 "You have authority to pursue discussions with ADP on 9 these subjects." 10 MS. GULLEY: Objection. 11 Q. (By Mr. Nemelka) You wrote that to 12 Mr. Schaefer, right? You saw that? 13 MS. GULLEY: Objection to the question and 14 the instruction. 15 A. The instructions that I gave to Mr. Schaefer is 16 on a general basis. He could -- he could discuss these 17 general areas. It did not have anything to do with what 18 we were going to agree to. 19 Q. (By Mr. Nemelka) And one of those topics was 20 market messaging on data security; correct? 21 MS. GULLEY: Objection; form. 22 A. That -- that was one of the items on Howard 23 Gardner's wish list. 24 Q. (By Mr. Nemelka) And you authorized 25 Mr. Schaefer to talk to CDK about that, right?</p>	<p style="text-align: right;">Page 72</p> <p>1 yes, that's what they're intended to do. 2 Q. (By Mr. Nemelka) Mr. Brockman, you used 3 Authenticom for your own products, didn't you? 4 MS. GULLEY: Objection; form. 5 (By Mr. Nemelka) We already established 6 that, right? 7 MS. GULLEY: Form. 8 A. Yes. But on a temporary basis and very, very 9 minor. 10 Q. (By Mr. Nemelka) So you used a hacker and a 11 bandit for your own products? 12 MS. GULLEY: Objection; form. 13 A. I used Authenticom to do a specific process, 14 with the knowledge of the dealer and with our knowledge. 15 Q. (By Mr. Nemelka) All right. So these security 16 enhancements that were much improved, much improved in 17 what? 18 MS. GULLEY: Objection; form. 19 A. In their ability to detect unauthorized use -- 20 use of our software. 21 Q. (By Mr. Nemelka) Unauthorized use of the -- 22 meaning by integrators to access dealer data? 23 MS. GULLEY: Objection; form. 24 A. What we're talking about is -- and that's we're 25 talking about, you know, very, very high-level, you</p>
<p style="text-align: right;">Page 71</p> <p>1 MS. GULLEY: Objection; form. 2 A. What I authorized Mr. Schaefer to do was -- 3 that he could discuss in general terms, generally, this 4 list. Not every specific item. 5 Q. (By Mr. Nemelka) Now, as you're having -- as 6 Reynolds is having these -- you can set that aside. As 7 Reynolds is having these discussions with CDK, you were 8 holding off on security enhancements that would -- that 9 you wanted to release, right? 10 MS. GULLEY: Objection; form. 11 A. There were a series of security enhancements 12 which were much improved in their capabilities, and we 13 wanted to deploy these -- these security enhancements. 14 But we did not want to do it that it would cause, kind 15 of, Armageddon kind of situation, where all of a sudden 16 ADP's customers would not get what their contracts 17 called for. 18 Q. (By Mr. Nemelka) You said that these security 19 enhancements were much improved in their capabilities. 20 Is that in their capabilities in blocking this access by 21 independent integrators? 22 MS. GULLEY: Objection; form. 23 A. Again, I -- I, first of all, take issue with, 24 you know, the characterization of independent 25 integrators. You know, if you mean hackers and bandits,</p>	<p style="text-align: right;">Page 73</p> <p>1 know, software enhancements to detect, you know, people 2 coming into the -- the system that -- who we know 3 nothing about. They're, you know, completely 4 unauthorized. That's what we're talking about. 5 Q. (By Mr. Nemelka) And you held off on releasing 6 those until you concluded your negotiations with CDK, 7 right? 8 MS. GULLEY: Objection; form. 9 A. The exact timing of -- of that, you know, when 10 we released the -- those enhancements -- I might add 11 that it's -- it's clear that the enhancements are not 12 necessarily released all at once. They're -- they're 13 not a single thing. 14 You know, there -- there's a series of what 15 we call "fixes" or "enhancements," and probably some of 16 them we turned loose earlier than others. They 17 weren't -- it's not a simultaneous, you know, 18 distribution of software enhancements. 19 Q. (By Mr. Nemelka) Reynolds held up on a large 20 release of security enhancements during the negotiations 21 with CDK; correct? 22 MS. GULLEY: Objection; form. 23 A. Again, I don't know that it was all the 24 security enhancements that we had prepared. Certainly, 25 there were a number of them.</p>

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<p style="text-align: right;">Page 74</p> <p>1 Q. (By Mr. Nemelka) I'm going to hand you 2 Plaintiff's Exhibit 642. 3 (Exhibit 642 was marked for 4 identification.) 5 Q. (By Mr. Nemelka) And, Mr. Brockman, I'll 6 represent to you that your counsel produced this. And 7 the metadata as produced says this came from your file. 8 And it's dated June 23rd, 2014. I'll give you a chance 9 to review it. There's a back page as well. 10 A. Oh, okay. 11 Q. Mr. Brockman, these are your notes; correct? 12 A. Yes. 13 Q. And you prepared these notes -- sorry. 14 A. This is a -- what I would refer to as a 15 "talking paper." It is a -- a series of points that I 16 want to make in a conversation with Steve Anenen. 17 Q. And one thing that you told him at the very 18 back, if you turn over to the second page, is that "We 19 have held up on a large release of security enhancements 20 for over 2 months to see if there was a deal to be 21 worked out." Do you see that? 22 A. Yes. I -- I see that. And that was a very 23 important point of -- of a call, that we had a number of 24 security enhancements that would -- would basically 25 block the kind of access that -- that they -- they had</p>	<p style="text-align: right;">Page 76</p> <p>1 in, which is completely contrary to the terms of their 2 contracts. Our contracts with our dealers specifically 3 say, you know, no authorized -- or, no use or access to 4 our software other than employees, you know, is -- is 5 permitted. Unfortunately, dealers are, you know, 6 somewhat cavalier about following that particular term 7 of their contract. 8 Q. (By Mr. Nemelka) And -- and they granted that 9 access so that they could -- they granted that -- 10 that -- those user IDs to be used to access the dealer 11 data; correct? 12 MS. GULLEY: Objection; form. 13 A. That's effectively what -- what would happen. 14 You know, the dealer has, you know, very powerful 15 reporting tools where they could do that themselves. 16 But this is for remote unattended access. 17 Q. (By Mr. Nemelka) All right. Let's go to the 18 first page. You have -- let's go to where you say, "The 19 second point is very much a personal one." Do you see 20 that, about midway through the -- down -- down through 21 the page? Midway, halfway, it says, "The second point 22 is very much a personal one." Do you see that? 23 A. Yes. 24 Q. Okay. Right under there, you say, "ADP has 25 been extracting data out of Reynolds systems for over a</p>
<p style="text-align: right;">Page 75</p> <p>1 been using to get into our systems. 2 Q. And you had been holding that up? 3 A. Yes. 4 MS. GULLEY: Objection; form. 5 Q. (By Mr. Nemelka) And -- and that would -- the 6 security enhancement would block, not just DMI and 7 Integra Link!, but other integrators; correct? 8 MS. GULLEY: Objection; form. 9 A. That's an interesting issue. When we see 10 things happening where people are breaking into our 11 system, we have no idea who they are in most cases. 12 There's no -- they don't have a signature on everything 13 that says who they are when they come in. We just know 14 that, you know, they're hacking their way in, and we're 15 going to block it. In some cases, that would cover 16 things that the ADP subsidiaries were doing. And in 17 some cases, it might uncover people that we had no idea 18 were -- were hacking into our systems. 19 Q. (By Mr. Nemelka) You understand for DMI and 20 Integra Link! and Authenticom, it was the Reynolds 21 dealers that were providing them that access; correct? 22 MS. GULLEY: Objection; form. 23 A. From -- when you say "providing that access," 24 you know, what -- what the Reynolds dealer would do is 25 -- and that's that they would give them a user ID to get</p>	<p style="text-align: right;">Page 77</p> <p>1 decade." Do you see that? 2 A. Yes. I do. 3 Q. And you knew that ADP was in the business of 4 providing that data to a host of other third parties, 5 right? 6 MS. GULLEY: Objection; form. 7 A. That -- that's my assumption. I -- I don't 8 have direct knowledge of that. 9 Q. (By Mr. Nemelka) And then you say, "ADP has 10 wrongly taken advantage of Reynolds in the marketplace 11 over the issue of data security -- that has cost us in 12 the millions." Do you see that? 13 A. Yes, I do. 14 Q. How was CDK taking advantage of Reynolds in the 15 marketplace on the issue of data security? 16 MS. GULLEY: Objection; form. 17 A. ADP's posture in the marketplace was that our 18 approach and our -- our -- you know, our belief that 19 data security is necessary because of the fact that we 20 have nonpublic personal information that -- that exists 21 inside of the Reynolds system, that that manner of 22 access, we think, is the right way to do things. We 23 think that's what's required by law. 24 ADP, from a sales standpoint, their 25 salespeople, would say that we're taking the wrong</p>

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<p style="text-align: right;">Page 78</p> <p>1 position on the data security standpoint. And we 2 believed that that was harmful to us in the marketplace. 3 Q. (By Mr. Nemelka) And it cost you in the 4 millions because you lost DMS customers as a result? 5 MS. GULLEY: Objection; form. 6 A. That -- that is correct. And to -- to lose a 7 customer over data security when we're doing things the 8 right way, the way that's required by law, you know, for 9 them to decide to switch their business to ADP, that's 10 obviously hurt. 11 Q. (By Mr. Nemelka) You know that other DMSs, 12 besides Reynolds and CDK, do not take the same view that 13 you do; correct? 14 MS. GULLEY: Objection; form. 15 UNIDENTIFIED SPEAKER: Objection; form. 16 A. I believe that they take views that are -- that 17 are different than ours. 18 Q. (By Mr. Nemelka) Are you saying that they are 19 in violation of the law? 20 A. I believe that the -- what's required by 21 Gramm-Leach-Bliley Act and also the Safeguards Rules -- 22 I believe that they're not following those, you know, 23 laws correctly. 24 Q. So you say it cost you -- the CDK wrongly 25 taking advantage of Reynolds in the marketplace over the</p>	<p style="text-align: right;">Page 80</p> <p>1 block it. 2 Q. (By Mr. Nemelka) Now, you say at the -- here, 3 "Therefore, I want" -- "I want a no-charge access to ADP 4 systems for the next 20 years." So you wanted free 5 access for the Reynolds applications for the next 20 6 years, but not to extract data for other third parties, 7 like DMI and Integra Link!, right? You made that clear. 8 And that was a difference? 9 MS. GULLEY: Objection; form. 10 UNIDENTIFIED SPEAKER: Objection; form. 11 A. There -- I think this particular passage 12 indicates the level of differences between -- when I say 13 "differences" -- you know, points of contention between 14 us and ADP. And it is specific in that -- we have 15 applications, for instance, like reminder cards for 16 service, that an ADP dealership, they would like to buy 17 that product from us, and we would have specific 18 certified access into the ADP system to get just the 19 data that it takes to do reminder cards. 20 Q. (By Mr. Nemelka) So you wanted 20 free years 21 of that type of access to this CDK dealer data; correct? 22 MS. GULLEY: Objection; form. 23 A. Well, it says "no-charge access." That means 24 no charge by ADP. That we would basically -- as long as 25 we used it strictly for a product that we offered, like</p>
<p style="text-align: right;">Page 79</p> <p>1 issue of data security cost you millions because you 2 lost DMS customers. Any other way that it cost Reynolds 3 millions, besides losing DMS customers? 4 MS. GULLEY: Objection; form. 5 A. I would say that the -- that it wouldn't 6 necessarily be just the loss of customers, it would also 7 have to do with our ability to acquire new customers. 8 And it is -- you have to understand, we've been -- I 9 personally have been, you know, bitter competitors, you 10 know, with ADP for a very, very, very long time, in 11 excess of 40 years. And this was one of the things that 12 irritated me specifically. 13 The software that I helped create, the 14 Power system in Houston, is extremely, you know, strong 15 in its data security. And from the time that I, you 16 know, came aboard at Reynolds and Reynolds, we've been 17 working to improve our data security. And it is vastly 18 improved from when I first -- you know, first arrived 12 19 years ago. 20 It's still not perfect, because people 21 think that -- you know, more, you know, inventive ways 22 of doing it. And it's very much a cat-and-mouse 23 situation in that the hackers figure out a new way and 24 then we figure out a way to block it. And then they 25 figure out another new way and we figure out a way to</p>	<p style="text-align: right;">Page 81</p> <p>1 service reminders, that we would have free access for 20 2 years. 3 Q. (By Mr. Nemelka) And what did you mean when 4 you told him here that "not to be used to extract data 5 for other 3rd parties"? 6 MS. GULLEY: Objection; form. 7 A. We are not -- never have been -- and have no 8 intention of being in the process of extracting data 9 from other dealership systems for the purposes of 10 reselling. We don't do that. 11 Q. (By Mr. Nemelka) Like DMI and Integra 12 Link! did? 13 A. We don't do that. 14 Q. You were considering entering into a joint 15 venture with CDK on that, though, as we saw earlier. 16 Correct? 17 MS. GULLEY: Objection; form. 18 A. No. That's not true. That -- that's not true. 19 Our -- our whole discussion with ADP was about an 20 orderly stand-down transition, to avoid creating 21 hardships for what is our mutual customers. 22 Q. (By Mr. Nemelka) And here -- did you tell 23 Mr. Anenen that you had no intention of ever entering 24 into the business like DMI and Integra Link!? 25 MS. GULLEY: Objection; form.</p>

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<p style="text-align: right;">Page 82</p> <p>1 A. I don't think I made a -- a general statement 2 of that. I think it's pretty clear, it says, "like 3 service reminders -- not to be used to extract data for 4 other 3rd parties." So that comment was directly in 5 relationship to the access that we would be granted by 6 ADP. 7 Q. (By Mr. Nemelka) I've handed you Plaintiff's 8 Exhibit 643. 9 (Exhibit 643 was marked for 10 identification.) 11 Q. (By Mr. Nemelka) The top email is an email 12 from Steve Anenen to you, dated July 2nd, 2015. I'll 13 give you a chance to read it. But again, Steve Anenen 14 is CDK's CEO, right? 15 A. That's correct. 16 Q. And this is an email to you, July 2nd, 2014. 17 I'll give you a chance to -- to review it. 18 MS. GULLEY: It starts on the back. 19 Q. (By Mr. Nemelka) Right. It starts off with an 20 email from you on June 30th, to Mr. Anenen; correct? 21 Mr. Brockman? 22 A. Just -- just a moment. Let me -- let me read 23 it. Yes, I've read it. Can you repeat your question? 24 Q. All right. So this starts off with an email 25 from you to Mr. Anenen, dated June 30, 2014, right?</p>	<p style="text-align: right;">Page 84</p> <p>1 as far as our system is concerned. It's time for it to 2 be over. 3 Q. (By Mr. Nemelka) And you write to him, also -- 4 still your email, Mr. Brockman. "However given that ADP 5 has accessed our systems for a couple of decades, my 6 request is for more than just data access than for 7 maintenance reminders -- both in content and duration." 8 So you -- here, you're saying, because CDK 9 accessed your systems for a long time, your request here 10 for free access is more than just for maintenance 11 reminders, right? 12 MS. GULLEY: Objection; form. 13 A. It is for other software products that -- that 14 we might offer to the marketplace. But still under the 15 certified interface process -- 16 Q. (By Mr. Nemelka) Right. 17 A. -- where it's clearly spelled out by contract, 18 you know, what data that we -- we get and nothing else. 19 Q. And then I want to ask you about what 20 Mr. Anenen says to that statement in particular, if you 21 go to his email. 22 MS. GULLEY: I don't -- I don't think he 23 read this first page. 24 MR. NEMELKA: I'm not going to ask about 25 anything but this one email -- but this one paragraph.</p>
<p style="text-align: right;">Page 83</p> <p>1 A. That's correct. 2 Q. And this follows up a conversation that you had 3 with him; correct? 4 MS. GULLEY: Form. 5 A. Yes. That is correct. 6 Q. (By Mr. Nemelka) And those were the -- the 7 talking points for that conversation is the document 8 that we just -- just looked at; correct? 9 MS. GULLEY: Objection; form. 10 A. Yes. That -- that's correct. And as you can 11 tell by the tone of this email, I'm getting a little 12 impatient. 13 Q. Right. 14 A. More than a little impatient. 15 Q. Right. You write here at the end, "My data 16 security projects have been delayed another week." 17 Right? 18 A. Yes. That's what it says. 19 Q. You're still delaying the -- the data security 20 projects since June 30th, 2014, right? 21 MS. GULLEY: Objection; form. 22 A. That's the date of this email. What's 23 happening is -- and that's that Steve Anenen is 24 employing delay tactics. And I'm impatient to get this 25 situation of, you know, data hacking, bandits, going on</p>	<p style="text-align: right;">Page 85</p> <p>1 Q. (By Mr. Nemelka) He says -- 2 MS. GULLEY: I object to that. 3 MR. NEMELKA: Okay. I just want to point 4 you to this one -- one paragraph that Mr. Anenen writes 5 in response to that statement. 6 MS. GULLEY: I object to that. 7 THE WITNESS: I would like to read the 8 email, please. 9 MR. NEMELKA: Okay. 10 MR. RYAN: So my -- my complaint is that 11 the procedure is that if the witness wants to read the 12 document, the witness can, right? That's certainly been 13 the case in depositions of the witnesses that you 14 represented. I just want to know what the ground rules 15 are. 16 MR. NEMELKA: If it's going to be 17 obstructionist, then we'll do it document by document. 18 I will let him read this email. 19 MS. GULLEY: I object to that comment as 20 well. 21 MR. NEMELKA: While he's reading, I'll just 22 state for the record, we've been given limited time, 23 here. I think it's fair to direct him to particular 24 points in a -- in a document. I'm giving him a chance 25 to read them. If they are longer documents, I think</p>

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<p style="text-align: right;">Page 86</p> <p>1 it's fair for us to direct him, for efficiency purposes. 2 If you want to take your time and ask him about other 3 parts of the document, you're free to. 4 MS. GULLEY: Mr. Nemelka, you have called 5 opposing counsel inappropriate for making statements on 6 the record like the one that you just made. I 7 completely object to your statement. 8 I also ask -- direct you to look into the 9 depositions that you have defended and that your 10 partner, Mr. Ho, has defended, in which he hasn't even 11 allowed counsel to use the time that they have on the 12 record. Everyone has the same amount of time, and 13 this -- this -- the desire to read documents is one that 14 you instructed your clients, repeatedly, on the record. 15 And if Mr. Brockman suggests that he would 16 like to read the document -- you're asking him to opine 17 on statements by Mr. Anenen -- he should at least be 18 allowed to read those statements, given that they were 19 more than four years ago. 20 MR. NEMELKA: You've gone beyond what's 21 appropriate, Andi, but I'll get back to questioning. 22 Q. (By Mr. Nemelka) All right, Mr. Brockman, I'd 23 like to ask you about -- 24 THE WITNESS: Excuse me. I didn't finish 25 reading. The amount of conversation that's been going</p>	<p style="text-align: right;">Page 88</p> <p>1 case, controlling data access has become a priority for 2 R&R only within the last several years. I would be 3 remiss not pointing out that R&R is accessing the ADP 4 system through a contract with Authenticom, and has been 5 doing so for quite some time without an agreement from 6 ADP." 7 Is Mr. Anenen correct in that, that -- that 8 Reynolds was accessing the ADP system through a contract 9 with Authenticom? 10 MS. GULLEY: Objection; form. 11 A. Well, there are some things that I -- I 12 disagree with in -- in this paragraph, starting with the 13 first sentence. I believe that when you acquire a 14 company and you make it part of your organization, that, 15 you know, the history of that company kind of goes with 16 it and becomes part of your history. And for him to, 17 you know, basically say that because DMI and Integra 18 Link! are organizations they acquired, you know, that 19 doesn't count. I believe it does count. 20 Q. (By Mr. Nemelka) That wasn't my question, 21 Mr. Brockman. My question was: Is he correct in 22 pointing out that R&R is accessing that CDK system 23 through a contract with Authenticom? 24 MS. GULLEY: Objection; form. 25 A. Yes. I'm -- I concur with that -- comma --</p>
<p style="text-align: right;">Page 87</p> <p>1 on across the table, I haven't had a chance to read. 2 MR. NEMELKA: Okay. 3 MS. WEDGWORTH: Can we go off the record a 4 minute? Mr. Wallner has informed us the phone is not -- 5 has been disconnected. Can we go off the record? 6 THE VIDEOGRAPHER: The time is 11:37 a.m. 7 We are off the record. 8 (Short recess 11:37 to 11:50 a.m.) 9 THE VIDEOGRAPHER: This is the beginning of 10 Media 2. The time is 11:50 a.m. We are back on the 11 record. 12 EXAMINATION (Continuing) 13 BY MR. NEMELKA: 14 Q. Mr. Brockman, I'd like to point you to the 15 email that you received from Mr. Anenen on July 2nd, 16 2014. Do you have that in front of you? 17 A. I do. 18 Q. And he wrote to you -- in the paragraph after 19 his bullet points, he said, "I should point out that we 20 have not been 'accessing R&R systems for decades' as you 21 said. Our businesses that access R&R systems came to us 22 through an acquisition." Do you see that? 23 MS. GULLEY: Form. 24 A. Yes, I do. 25 Q. (By Mr. Nemelka) And then he says, "In any</p>	<p style="text-align: right;">Page 89</p> <p>1 however, there is an issue of degree here. What's been 2 going on -- what ADP has been doing as far as, you know, 3 hacking our systems has been on -- on a giant scale, 4 whereas the -- the agreement with Authenticom for 5 information from CDK's systems, specifically around 6 reminder cards, is -- is min- -- minuscule. And what 7 he's doing is -- and that's, you know, this -- this is a 8 negotiation -- a pretty heated negotiation, frankly -- 9 or at least kind of heated on my part -- and that he's 10 endeavoring to dodge around. 11 Q. (By Mr. Nemelka) You wouldn't have used 12 Authenticom if they were insecure, would you have? 13 MS. GULLEY: Objection; form. 14 A. For reminder cards, you know, there's no 15 nonpublic personal information. There's no accounting 16 information. It -- again, it is -- it's not an 17 application that's sensitive. 18 Q. (By Mr. Nemelka) Reynolds used Authenticom for 19 more than just those reminders, right? 20 MS. GULLEY: Objection; form. 21 A. I think that they started to do some work for 22 the -- the ad agency. 23 Q. (By Mr. Nemelka) Right. Naked Line Marketing, 24 right? 25 MS. GULLEY: Objection; form.</p>

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<p style="text-align: right;">Page 90</p> <p>1 A. Yes. That's the name of our ad agency.</p> <p>2 Q. And Naked Line does have information -- does</p> <p>3 get information on customers; correct?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. Again, the usage of -- that usage is -- has</p> <p>6 been extremely minor.</p> <p>7 Q. (By Mr. Nemelka) Again, you would not have</p> <p>8 used Authenticom if they were insecure, right?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. As far as I know, there's been -- there was no</p> <p>11 inquiry made with regards to their internal security</p> <p>12 procedures.</p> <p>13 Q. (By Mr. Nemelka) You're not aware of any data</p> <p>14 breaches that they've had, right?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. (By Mr. Nemelka) They provided a reliable</p> <p>18 service; correct?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. And I'm not involved in -- in that part of our</p> <p>21 business. It's -- I'm not in -- in a position to say</p> <p>22 whether it's reliable or not.</p> <p>23 Q. (By Mr. Nemelka) It's cost-effective for</p> <p>24 Reynolds to use Authenticom, right?</p> <p>25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 92</p> <p>1 (By Mr. Nemelka) I've handed you an</p> <p>2 exhibit marked Plaintiff's Exhibit 644.</p> <p>3 (Exhibit 644 was marked for</p> <p>4 identification.)</p> <p>5 Q. (By Mr. Nemelka) And I will represent to you</p> <p>6 that this was produced to us by your counsel from your</p> <p>7 custodial files, with a date of July 14th, 2014. And</p> <p>8 the file name was "Aspen Meeting 2014 State of the</p> <p>9 Union." And I'm only going to ask you about two</p> <p>10 sections.</p> <p>11 So it's a multipage state of the union</p> <p>12 notes. So do you -- do you recognize these as your --</p> <p>13 your notes for a state of the union meeting?</p> <p>14 MS. GULLEY: Form.</p> <p>15 A. The context of this is -- and that's we have an</p> <p>16 annual meeting of sales -- you know -- vice-presidents,</p> <p>17 and we discuss a number of issues of general interest.</p> <p>18 Q. (By Mr. Nemelka) Okay. If I could just point</p> <p>19 you to the section on "Security," on the next page.</p> <p>20 MS. GULLEY: Objection.</p> <p>21 A. Well, I think that this -- this is a big</p> <p>22 document. I think I would prefer to, you know, spend a</p> <p>23 little more time on it than that. I -- I hesitate to,</p> <p>24 essentially, take things out of context.</p> <p>25 Q. (By Mr. Nemelka) All right. I don't intend on</p>
<p style="text-align: right;">Page 91</p> <p>1 A. Again, I'm -- I'm not sufficiently involved in</p> <p>2 that part of the business to be able to comment on that.</p> <p>3 Q. (By Mr. Nemelka) And then he writes at the end</p> <p>4 of that paragraph, "We need to clean this up as well."</p> <p>5 And you understood that to mean that Reynolds needed to</p> <p>6 stop using Authenticom, right?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. Frankly, I don't recall that I've ever focused</p> <p>9 on that -- on that sentence. It's a little short one,</p> <p>10 kind of down at the end of the whole thing. And so --</p> <p>11 Q. (By Mr. Nemelka) What do you understand him to</p> <p>12 mean by saying, "We need to clean this up as well"?</p> <p>13 MS. GULLEY: Objection; form. Please let</p> <p>14 him finish his answers.</p> <p>15 A. It is -- it is not clear to me what that means</p> <p>16 and, frankly, when I received this, I didn't pay much</p> <p>17 attention to that, you know, little short sentence in</p> <p>18 the next-to-the-last paragraph.</p> <p>19 Q. (By Mr. Nemelka) Reynolds ultimately did agree</p> <p>20 to stop using Authenticom as part of its agreements with</p> <p>21 CDK, right?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. I -- I know that -- that we stopped using</p> <p>24 Authenticom. Whether it was part of the -- of the</p> <p>25 stand-down agreement, I'm not sure.</p>	<p style="text-align: right;">Page 93</p> <p>1 taking anything out of context. I'm just going to ask</p> <p>2 you about the sections on security. But -- you know, it</p> <p>3 is a long document. And I don't intend on asking you</p> <p>4 about most of it.</p> <p>5 I guess, can I just ask you, first of</p> <p>6 all -- maybe I'll just do it this way. Do you recognize</p> <p>7 these as your -- your speaking notes for that -- for</p> <p>8 that address?</p> <p>9 MS. GULLEY: Form.</p> <p>10 A. These were, you know, talking points. They</p> <p>11 covered a number of issues of interest, a lot of which</p> <p>12 are related.</p> <p>13 Q. (By Mr. Nemelka) I'll -- maybe if I could just</p> <p>14 ask you the questions on security, and if you feel like</p> <p>15 you need to review the rest of it to answer them,</p> <p>16 then -- then I'll give you the chance. But if I could</p> <p>17 just try to -- you know, make this more efficient by</p> <p>18 pointing you to the security section?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. I think to make -- to make an intelligent</p> <p>21 decision as of what to do, I need to read it first.</p> <p>22 MR. NEMELKA: All right. Well, while you</p> <p>23 do that, let's go off the record.</p> <p>24 MS. GULLEY: Objection. We are staying on</p> <p>25 the record. That's just the procedure that's been</p>

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<p style="text-align: right;">Page 94</p> <p>1 followed by Kellogg, so I'm just trying to make it, you 2 know, sort of goose/gander. 3 MR. NEMELKA: All right. We have a jury 4 that's going to be watching this. And I would just like 5 to state for the record, I've asked him to -- only asked 6 him for a few questions to make this efficient. But he 7 wants to review the whole -- whole documents. He's 8 recognized that -- he's acknowledged that these are 9 speaking notes for -- for that meeting. And with that 10 statement, Mr. Brockman, you can review the document. 11 MS. GULLEY: I object. 12 MR. RYAN: I object as well. 13 THE WITNESS: I'd like to speak to my 14 attorney about this document. 15 MR. NEMELKA: Okay. 16 MS. GULLEY: Does it relate to a matter of 17 privilege -- potential privilege? 18 THE WITNESS: This is very, very sensitive 19 information. You know -- 20 MS. GULLEY: Is there a question pending 21 right now? So we can go off the record? There is not. 22 There is not a question pending. 23 MR. RYAN: There is no question. 24 MS. GULLEY: Okay. Thanks. Let's go off 25 the record.</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Yes. 2 Q. I want to ask you about a few bullet points 3 that start with "ADP" -- and CDK -- "has approached us 4 about doing the same -- we are in the early stages of 5 negotiating a similar agreement." Do you see that? 6 A. Yes. I see that. 7 Q. So is it CDK that approached Reynolds about 8 entering into an agreement with respect to its -- its 9 data access on Reynolds system? 10 MS. GULLEY: Form. 11 A. It's hard for me to -- to recall exactly how 12 that, you know, came about, because I was not the first 13 person to actually talk, you know, to CDK. And whether 14 or not one of their people talked to one of our people, 15 or one of our people talked to one of their people, I -- 16 I don't know the answer to that. 17 Q. (By Mr. Nemelka) At least -- these notes, 18 though, you -- you seem to indicate that ADP has 19 approached "us," meaning CDK approached Reynolds, right? 20 MS. GULLEY: Form. 21 A. Yes. The -- that's what it says, but -- you 22 know, as far as my, you know, hard knowledge, you know, 23 behind that -- that statement, I don't have hard 24 knowledge as to what actually -- and frankly, I don't 25 think that's important.</p>
<p style="text-align: right;">Page 95</p> <p>1 THE VIDEOGRAPHER: The time is 12:01 p.m. 2 We're off the record. 3 (Short recess 12:01 to 12:02 p.m.) 4 THE VIDEOGRAPHER: Back on the record at 5 12:02 p.m. 6 MS. GULLEY: Thank you for that short 7 break. Mr. Brockman had a question about the protective 8 order. And in light of the sensitive nature of this 9 document, we ask that I remind everyone that this has 10 been marked "Attorneys' Eyes Only," that this entire 11 deposition is "Attorneys' Eyes Only." In particular, to 12 remind Mr. Ryan that executives within his company and 13 all the parties are not to know about or be told about 14 any of this document or the subject of this testimony. 15 Thank you. 16 EXAMINATION (Continuing) 17 BY MR. NEMELKA: 18 Q. Can I ask you some questions now, Mr. Brockman? 19 A. I'm almost done reading it. 20 Q. Okay. 21 A. Yes. 22 Q. If you can go to the section on "Security," 23 which is on the -- after the first page, on the back of 24 the first page. Do you see that bottom-of-the-page 25 section on Security?</p>	<p style="text-align: right;">Page 97</p> <p>1 Q. (By Mr. Nemelka) And then you write here, 2 fourth bullet point, "This could put the security wars 3 very much behind us." Do you see that? 4 MS. GULLEY: Form. 5 A. Certainly, those two entities that belong to 6 ADP are by far the worst and, matter of fact, 7 probably -- in total, probably the amount of data 8 hacking that goes on, they equal everybody else combined 9 and more. 10 Q. (By Mr. Nemelka) That wasn't my question. The 11 question here is: Do you see that you wrote that "This 12 could put the security wars very much behind us"? Do 13 you see that? 14 MS. GULLEY: Objection; form. 15 A. Yeah. What I'm talking about there is -- and 16 that's that, you know, the volume of hacking would be 17 substantially reduced. 18 Q. (By Mr. Nemelka) So you -- earlier this 19 morning, you said that you never used the phrase 20 "security wars." Does this refresh your recollection 21 that you actually do -- did? 22 MS. GULLEY: Objection; form. 23 A. Well, it -- it looks like that -- that I 24 actually have used it once. I will admit, it's in lower 25 case. And when I write documents like this, it's just</p>

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<p style="text-align: right;">Page 98</p> <p>1 very much kind of stream of consciousness, because I'm 2 trying to give the best picture to the people that are 3 listening to it. Because they're my top people, and 4 also the most expensive people. 5 Q. (By Mr. Nemelka) And you felt that you had 6 been in a security war with CDK, right? 7 MS. GULLEY: Objection; form. 8 A. I definitely had been in -- I had long-term 9 issues with CDK over -- over, you know, just ban- -- 10 plain old banditry as far as our system is concerned. 11 Q. (By Mr. Nemelka) This wasn't just about the 12 access of your system, though, this was also about CDK's 13 own policies, right? 14 MS. GULLEY: Objection; form. 15 A. It also included, you know, the fact that they 16 had outright lied to manufacturers about what data they 17 were extracting from our systems. And particularly, 18 General Motors. We discovered that they were fulfilling 19 a request by General Motors for data, and they were 20 talking to dealers saying, "This needs to be done 21 because it's General Motors." Well, the fact of the 22 matter is, they were collecting way more than what 23 General Motors ever asked for. 24 MS. GULLEY: Wait. Let him finish. 25 A. And so that is kind of -- the whole general</p>	<p style="text-align: right;">Page 100</p> <p>1 about the wind-down agreement. What you write is, 2 "Since we have no idea of how ADP is going to charge 3rd 3 parties for their version of RCI." 4 And my question is: How did you know that 5 CDK was going to have their version of an RCI? 6 MS. GULLEY: Objection; form. 7 A. I think at that point, we were also 8 understanding that we were going to be able to have RCI 9 access into ADP dealership customers, not for the 10 purposes of being a redistributor, but for the purposes 11 of using it within one of our product offerings. And 12 there was going to be a charge associated with that. 13 Q. (By Mr. Nemelka) Reynolds was going to be 14 getting five free years of access, no -- no charge to -- 15 to Reynolds, right? 16 MS. GULLEY: Objection; form. 17 MR. RYAN: Objection; form. 18 A. That -- that was -- that was what ended up 19 being -- being part of the agreement. However, we had 20 no, you know, specific idea that our usage would be 21 limited to 600 dealerships. It -- it would be -- it 22 would be other products. You know, their -- this 23 marketplace is -- is constantly, you know, building more 24 products. 25 And actually, in, you know, looking back,</p>
<p style="text-align: right;">Page 99</p> <p>1 area is what I'm referring to. 2 Q. (By Mr. Nemelka) That's not what I asked. 3 What I'm saying is, this was not just about CDK's access 4 on the Reynolds system. It was also about CDK's own 5 policies with respect to access on the CDK system, 6 right? 7 MS. GULLEY: Objection to the form. 8 A. No. It was -- it was -- it refers to 9 situations where they were accessing dealership systems 10 on behalf of OEMs. 11 Q. (By Mr. Nemelka) The next bullet point, you 12 write, "Since we have no idea of how ADP is going to 13 charge 3rd parties for their version of RCI -- we will 14 likely continue to have the issue of customers 15 complaining that their costs from 3rd party vendors are 16 more expensive with a DMS from Reynolds than ADP." 17 I wanted to ask you: How did you know that 18 CDK would have a version of RCI, like you did? 19 MS. GULLEY: Objection; form. 20 A. I think at that point in time, it -- it 21 looked -- it had become apparent -- it wasn't done, but 22 it had become apparent that there was going to be a -- 23 an orderly stand-down agreement with ADP. That's -- 24 that's what I'm saying here. 25 Q. (By Mr. Nemelka) All right. I'm not talking</p>	<p style="text-align: right;">Page 101</p> <p>1 it's fortunate that we were able to achieve this kind of 2 access as part of the agreement, because we bought an 3 organization called Reverse Risk, which is a business 4 intelligence system that has over 1,000 dealerships that 5 are CDK dealerships, that through an RCI type agreement, 6 you know, with CDK, you know, we -- you know -- we 7 downloaded accounting information for the purposes of 8 making comparisons. 9 Q. (By Mr. Nemelka) That wasn't my question, 10 Mr. Brockman. 11 I'm asking you why, after you say it's 12 going to be an end to the security wars, you list that 13 ADP is going to have their own version of RCI? What is 14 the connection? 15 MS. GULLEY: Objection; form. 16 A. Again, I -- their -- their own version of RCI 17 is -- is part of what the stand-down agreement is all 18 about. 19 Q. (By Mr. Nemelka) You don't talk about -- in 20 that bullet point, you don't talk about the stand-down 21 agreement. You talk about third parties for their 22 version of RCI, right? 23 MS. GULLEY: Objection; form. 24 A. Well, again, I'm trying to tell you what I was 25 thinking about when I wrote this thing and what I was</p>

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<p style="text-align: right;">Page 102</p> <p>1 trying to communicate.</p> <p>2 Q. (By Mr. Nemelka) And I'm just saying I'm just</p> <p>3 reading your words, "charge 3rd parties" -- not "charge</p> <p>4 Reynolds" -- "charge 3rd parties for their version of</p> <p>5 RCI."</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 Q. (By Mr. Nemelka) And so my question is --</p> <p>8 MS. GULLEY: Let him finish his question.</p> <p>9 THE WITNESS: Yeah.</p> <p>10 Q. (By Mr. Nemelka) Go ahead and answer.</p> <p>11 MS. GULLEY: Answer what?</p> <p>12 Q. (By Mr. Nemelka) Mr. Brockman wants to talk.</p> <p>13 MS. GULLEY: Just wait for a question.</p> <p>14 MR. RYAN: Wait for a question.</p> <p>15 Q. (By Mr. Nemelka) My question is -- is: You're</p> <p>16 not talking about what -- what CDK is going to charge</p> <p>17 Reynolds. You're talking about what CDK is going to</p> <p>18 charge third parties for their version of RCI; correct?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 A. In -- in that context, I believe that I'm, you</p> <p>21 know, characterizing Reynolds as a third party.</p> <p>22 Q. (By Mr. Nemelka) You're not talking about all</p> <p>23 of the other vendors?</p> <p>24 A. I -- I don't think that I'm -- I know,</p> <p>25 specifically, that I'm talking about, at least,</p>	<p style="text-align: right;">Page 104</p> <p>1 Are -- we're on the first page of what document?</p> <p>2 MR. NEMELKA: The document that's right in</p> <p>3 front of him, Andi.</p> <p>4 MS. GULLEY: Could you identify the exhibit</p> <p>5 for the record, please.</p> <p>6 MR. NEMELKA: This is Exhibit 644.</p> <p>7 MS. GULLEY: Thank you.</p> <p>8 Q. (By Mr. Nemelka) Under the section on</p> <p>9 "Acquisitions" -- since you read the whole document -- I</p> <p>10 wanted to ask you about a sentence here where you write,</p> <p>11 "We need to quit talking about DMS systems and focus on</p> <p>12 RMS and the massive financial advantages of our</p> <p>13 offering."</p> <p>14 And my first question is: "RMS" stands for</p> <p>15 Retail Management Ser- -- is that Retail Management</p> <p>16 Services or Retail Management System?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. Retail Management System.</p> <p>19 Q. (By Mr. Nemelka) Okay. And you said you need</p> <p>20 to -- and this is a speech to your salespeople; is that</p> <p>21 right?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. That's correct.</p> <p>24 Q. (By Mr. Nemelka) And you say they -- they need</p> <p>25 to quit talking about DMS systems and focus instead on</p>
<p style="text-align: right;">Page 103</p> <p>1 Reynolds.</p> <p>2 Q. Well, you go on, Mr. Brockman, "We will likely</p> <p>3 continue to have the issue of customers complaining that</p> <p>4 their costs from 3rd party vendors are more expensive</p> <p>5 with a DMS from Reynolds than ADP." Are you referring</p> <p>6 only to the Reynolds applications?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. What I'm referring to is, in this, that, you</p> <p>9 know, we get beat up in the marketplace over, you know,</p> <p>10 third parties having to pay for a Reynolds-certified</p> <p>11 interface, and it looks like -- it looks like the way</p> <p>12 it's going is -- and that's that CDK is going to do it</p> <p>13 the same way.</p> <p>14 Q. (By Mr. Nemelka) All right. Let's go to the</p> <p>15 first page. I want to ask you about a bullet point</p> <p>16 here.</p> <p>17 MS. GULLEY: I'm sorry. So we're on 644.</p> <p>18 You're talking about something other than the "Security"</p> <p>19 section?</p> <p>20 MR. NEMELKA: Andi, make your objections.</p> <p>21 I'm on the first --</p> <p>22 MS. GULLEY: I'm trying to figure out --</p> <p>23 MR. NEMELKA: I'm on the first page. I'm</p> <p>24 on the first page. That's not what you're doing.</p> <p>25 MS. GULLEY: Mr. Nemelka, I'm asking:</p>	<p style="text-align: right;">Page 105</p> <p>1 RMS. What did you mean by that?</p> <p>2 MS. GULLEY: Form.</p> <p>3 A. What I mean by that is -- and that's the DMS</p> <p>4 systems are the -- the traditional, you know,</p> <p>5 applications of -- of accounting, payroll, parts, you</p> <p>6 know, service, finance, vehicle inventory, factory</p> <p>7 communications. That is a suite of applications which</p> <p>8 has been under long development and, frankly, it's</p> <p>9 gotten to the point where it's so good that there's</p> <p>10 nothing much more we can do to it. I know that sounds a</p> <p>11 little strange but, I mean, that's the truth. The level</p> <p>12 of requests we have for software enhancement in those</p> <p>13 application areas is, you know, been kind of like this</p> <p>14 (indicating) for a long time.</p> <p>15 The retail management system takes into</p> <p>16 consideration all of the other applications that</p> <p>17 surround the DMS, which is under active development.</p> <p>18 For instance, our docuPAD application and our imaging</p> <p>19 systems, our advanced service products have been under,</p> <p>20 you know, steady improvement. And we have considerable</p> <p>21 competitive advantage in those areas. And so what I'm</p> <p>22 encouraging them to do is -- and that's to not focus on,</p> <p>23 you know, the older applications where we -- where</p> <p>24 everybody is kind of caught up. To be focused -- to</p> <p>25 focus, instead, on the retail management system, which</p>

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<p style="text-align: right;">Page 106</p> <p>1 includes all of the other applications that integrate to 2 the central core applications. 3 Q. Thank you for that explanation. 4 (Exhibit 645 was marked for 5 identification.) 6 Q. (By Mr. Nemelka) I've handed you Plaintiff's 7 Exhibit 645. And if you recognize -- the top email is 8 an email from Mr. Schaefer to Ron Workman, dated January 9 6, 2015. But the chain starts with an email from you to 10 Mr. Brockman, also dated January 6, 2015. So do you 11 recognize this document? 12 A. I've got to -- I've got to read it. Okay. 13 Q. So I need to ask you about your email where you 14 write to Mr. Anenen -- this is now January 2015 -- "We 15 have held off on a series of major security enhancements 16 to our DMS systems at your request." So are these the 17 same security enhancements that we saw from 2014 that 18 Reynolds had been holding off on? 19 MS. GULLEY: Objection; form. 20 A. I'm sorry. I don't know what specific ones are 21 involved. I don't -- I'm not a programmer. 22 Q. (By Mr. Nemelka) But still -- Reynolds is 23 still holding off on security enhancements, though, 24 right? 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 108</p> <p>1 MS. GULLEY: Form. 2 A. Give me a chance to -- to read it. I'll be 3 with you shortly. 4 Q. (By Mr. Nemelka) Okay. 5 A. Okay. 6 Q. Okay, I want to ask you just about one issue 7 here that he references. First of all, do you recall 8 getting this email from Mr. Schaefer, Mr. Brockman? 9 A. Yes. 10 Q. And the -- an issue -- and it's about the 11 continuing negotiations between CDK and Reynolds; 12 correct? 13 MS. GULLEY: Form. 14 A. Yes. 15 Q. (By Mr. Nemelka) And an issue that -- I mean, 16 I've identified is -- I'm quoting -- "CDK committing to 17 NEVER accessing the Reynolds DMS again." Do you see 18 that at the bottom of the first page? 19 MS. GULLEY: Form. 20 Q. (By Mr. Nemelka) At bottom of the first page, 21 the very last line. 22 MS. GULLEY: Objection; form. 23 Q. (By Mr. Nemelka) Are you there with me, 24 Mr. Brockman? 25 A. I see that, and I'm -- and I'm looking at --</p>
<p style="text-align: right;">Page 107</p> <p>1 A. They're -- that's what I was saying to Steve 2 Anenen in this -- in this email. There's no question -- 3 you can tell my -- my frustration is increasing and, you 4 know, this is -- this is an or-else kind of email. 5 Q. (By Mr. Nemelka) Right. And you say, "We must 6 proceed with the release of our security enhancements." 7 You say that at the end, right? 8 A. That's correct. 9 Q. And these have been pending for a long time, 10 given the documents we've been looking at, right? 11 MS. GULLEY: Form. 12 A. That's correct. It's been a very frustrating, 13 you know, process. 14 Q. (By Mr. Nemelka) And the security enhancements 15 that you are going to release -- strike that. 16 MS. GULLEY: For the room, the lunch is 17 here. 18 MR. NEMELKA: I want to ask him about one 19 more document. It might be more than one. 20 (Exhibit 646 was marked for 21 identification.) 22 Q. (By Mr. Nemelka) I've handed you Plaintiff's 23 Exhibit 646, which is an email from Bob Schaefer to you, 24 Mr. Brockman, dated January 11, 2015. Do you recognize 25 receiving this email from Mr. Schaefer?</p>	<p style="text-align: right;">Page 109</p> <p>1 what the reply was. 2 Q. And -- 3 MS. GULLEY: Objection; form. 4 Q. (By Mr. Nemelka) What Mr. Schaefer explains to 5 you is, is that -- and I want to ask you, Mr. Brockman, 6 about the next page, Mr. -- what Mr. Schaefer writes to 7 you about that issue. Second-to-last sentence of 8 that first paragraph up top, he says, "We have added" -- 9 meaning Reynolds -- "have added after the 5 years they 10 cannot access the system on behalf of any 3rd party 11 forever." Do you see that? 12 MS. GULLEY: Form. 13 A. Yes. 14 Q. (By Mr. Nemelka) And that's what Reynolds 15 wanted, is for CDK to agree to never access the Reynolds 16 system again on behalf of any third party, right? 17 MS. GULLEY: Form. 18 A. That's certainly what we wanted to happen. 19 Q. (By Mr. Nemelka) And CDK said, at least -- 20 current state of the negotiation was for five years. 21 We'll have this wind-down period, but after that, we 22 don't want to agree to the forever, right? 23 MS. GULLEY: Objection; form. 24 A. That -- that was my understanding. And this 25 whole -- I've not been involved at this level of detail</p>

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<p style="text-align: right;">Page 110</p> <p>1 in this negotiation, which is basically formalizing what 2 the stand-down agreement consists of. And I know what 3 we asked for and -- and they're -- they're not agreeing. 4 Q. (By Mr. Nemelka) Okay. Reynolds was insisting 5 on forever never accessing. And CDK, at least, wanted 6 to keep that to five years, right? 7 MS. GULLEY: Objection; form. 8 Q. (By Mr. Nemelka) Right? What was that -- what 9 was the answer? 10 MS. GULLEY: Objection; form. 11 A. That's my understanding. That's what this is 12 all about. 13 Q. (By Mr. Nemelka) And in fact, in the wind-down 14 agreement, it is forever, right? 15 MS. GULLEY: Objection -- 16 MR. NEMELKA: Let me finish answering my 17 question -- asking my question. 18 Q. (By Mr. Nemelka) In fact, it is forever, 19 correct, that CDK agreed to never access the Reynolds 20 system, right? 21 MS. GULLEY: Objection; form. This is 22 improper. 23 A. I would want to go look at that document, but I 24 don't believe it says that. 25 MR. NEMELKA: All right. Let's pull it</p>	<p style="text-align: right;">Page 112</p> <p>1 to go ask for any further changes and to agree to, you 2 know, what CDK wanted, just to get it off the table so I 3 could get on with the next project. 4 Q. (By Mr. Nemelka) Did you read this before you 5 signed it? 6 MS. GULLEY: Form. 7 A. I did not read it. I -- I -- I skimmed it. 8 Q. (By Mr. Nemelka) Okay. So let's go to Section 9 4.5. And the Section 4.5 is "Prohibition on Knowledge 10 Transfer and DMS Access." Do you see that? 11 MS. GULLEY: Form. 12 A. Yes, I see that paragraph. 13 Q. (By Mr. Nemelka) All right. And in this 14 paragraph, CDK and Reynolds agreed to two things. 15 MS. GULLEY: Form. 16 Q. (By Mr. Nemelka) Let's look at the first. 17 "Each of Reynolds and CDK further covenants and agrees 18 not to sell, transfer, or assign to any affiliate or 19 third party any technology, business process, or other 20 such knowledge regarding integration with the other 21 party's DMS or take any other steps to assist any person 22 that it reasonably believes to have plans to access or 23 integrate with the other party's DMS without other 24 party's written consent." Do you see that? 25 MS. GULLEY: Form.</p>
<p style="text-align: right;">Page 111</p> <p>1 out. 2 (Exhibit 647 marked for identification.) 3 Q. (By Mr. Nemelka) Mr. Brockman, I've handed you 4 Plaintiff's Exhibit 647, which is the data exchange 5 agreement between CDK and Reynolds. And the first thing 6 I'm going to do is point you to where you -- you -- 7 first of all, you signed this agreement, right, on 8 behalf of Reynolds? 9 MS. GULLEY: Objection; form. 10 A. Yes, I did. 11 Q. (By Mr. Nemelka) So let's go there. This is 12 on Page -- on Page 11 of 13. 11 of 13, do you see that, 13 Mr. Brockman, your signature there? 14 A. Yes. 15 Q. Dated February 18, 2015? 16 A. That's correct. 17 Q. And do you typically read contracts before you 18 sign them? 19 MS. GULLEY: Objection; form. 20 A. Umm, it depends. In this particular case, I 21 did not read this one extensively. I felt that the -- 22 you know, this particular issue had -- or, you know, a 23 stand-down had -- had been, you know, worked on, 24 negotiated at length. And this one, I was ready to get 25 done. And so I was -- I had already made up my mind not</p>	<p style="text-align: right;">Page 113</p> <p>1 A. Yes, I see that. And that -- that's a very 2 important provision. 3 Q. (By Mr. Nemelka) And -- and what -- 4 MS. GULLEY: Objection. 5 Q. (By Mr. Nemelka) What did you agree to there? 6 MS. GULLEY: I'm sorry. Were you finished 7 answering the last question? 8 THE WITNESS: Would you please repeat the 9 last question? 10 Q. (By Mr. Nemelka) My question is -- is -- 11 was -- was: Did you see that? You said, "Yes." So my 12 que- -- my pending question is: What did you agree to 13 there with CDK? 14 MS. GULLEY: Objection; form. He was not 15 done answering the last question before that. 16 A. Okay. What -- what's at work here is -- and 17 that's that as a result of the, you know, the 18 stand-down, you know, that -- to accomplish that, would 19 require, you know, knowledge of how access is gained 20 to a dealership system. And so what we're doing is -- 21 and that's we're -- we're jointly agreeing with each 22 other that we will not turn loose any kind of knowledge 23 or technology that enables somebody to do that. 24 Q. All right. And then the next sentence is, "For 25 the avoidance of doubt, this Section 4.5 is not intended</p>

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<p style="text-align: right;">Page 114</p> <p>1 as a 'covenant not to compete,' but rather as a 2 contractual restriction of access and attempted access 3 intended to protect the operational and data security 4 integrity of the Reynolds DMS and the CDK DMS and 5 protection of intellectual property." 6 And so my question is: It was a 7 contractual restriction of access that CDK and Reynolds 8 agreed to, right? 9 MS. GULLEY: Objection; form. 10 A. Well, okay. I'm not -- I'm not -- I'm not 11 seeing that here. What -- what's intended here is -- 12 and that's that -- you know, what's happening is -- and 13 that's that, you know, we're going to gain knowledge 14 about how to get -- how to get into our systems, and 15 they're going to get some knowledge about how to get 16 into ours, okay? We're agreeing not to disseminate that 17 knowledge, okay? 18 And what we're further saying is -- is 19 look, you know, this is an IP protection provision. It 20 is not intended as a covenant not to compete, you know. 21 We're going to compete. But we're not going to -- we're 22 not going to share, you know, the IP to other third 23 parties or fourth parties, you know, as a result of -- 24 of this agreement. 25 Q. (By Mr. Nemelka) Now, you just saw a document</p>	<p style="text-align: right;">Page 116</p> <p>1 Q. (By Mr. Nemelka) Please finish reading the 2 entire title of 4.5, Mr. Brockman. 3 MS. GULLEY: Objection; form. Just give me 4 a chance to object, Mr. Brockman. 5 A. It says "Prohibition on Knowledge Transfer and 6 DMS Access." 7 Q. (By Mr. Nemelka) All right. 8 A. And -- and you know, what -- what it's intended 9 to mean is -- and that's that each party is going to 10 have access to intellectual property of the other and 11 that we're both jointly, you know, agreeing not to 12 disclose that. But, you know, it's not intended to be a 13 covenant not to compete. It's -- it's simply an issue 14 of intellectual property. 15 Q. After covenant not to compete -- compete, it 16 doesn't say it's simply an issue of intellectual 17 property, does it? 18 MS. GULLEY: Objection; form. 19 A. Yeah, I -- I think the 4.5 heading, you know, 20 goes a long ways towards accomplishing that. 21 Q. (By Mr. Nemelka) 4.5 heading says "Prohibition 22 of Knowledge Transfer and DMS Access"; correct? 23 MS. GULLEY: Objection; form. 24 A. I believe that -- I believe that that's all one 25 issue. It's not two separate issues.</p>
<p style="text-align: right;">Page 115</p> <p>1 where Mr. Schaefer said to you that -- and you testified 2 that Reynolds wanted CDK to agree to never access the 3 Reynolds DMS again, right? 4 MS. GULLEY: Objection; form. 5 MR. RYAN: Do you have an exhibit number? 6 A. There -- there -- that provision did not make 7 it into the final agreement, I don't believe. 8 Q. (By Mr. Nemelka) So what is this contractual 9 restriction of access that we're looking at here in 4.5? 10 MS. GULLEY: Objection; form. 11 A. It is not restriction of access. It's 12 restriction of the -- not to disseminate knowledge about 13 how to access. 14 Q. (By Mr. Nemelka) Mr. Brockman, it says -- 15 A. It was -- 16 Q. -- "contractual restriction of access and 17 attempted access." Correct? 18 MS. GULLEY: Objection; form. 19 A. But -- but if you look at the heading for 4.5, 20 it's "Provision on Knowledge Transfer" -- 21 Q. Finish reading the -- the -- 22 MS. GULLEY: Objection; form. 23 A. -- "and DMS Access." 24 MR. NEMELKA: Let -- let me finish my 25 question.</p>	<p style="text-align: right;">Page 117</p> <p>1 Q. (By Mr. Nemelka) Prohibition on DMS access? 2 MS. GULLEY: Objection; form. 3 A. I believe it's prohibition on knowledge 4 transfer. Yeah, that's what it's all about. 5 Q. (By Mr. Nemelka) But there's an "and" there, 6 isn't there? 7 MS. GULLEY: Objection; form. 8 A. I'm sorry. I have to plead a little bit that 9 I'm not a lawyer like you are, and -- and, you know, 10 this document has got lots of words in it. And I do not 11 believe that that was the intent of the drafter. 12 Q. (By Mr. Nemelka) Even though -- well, if we go 13 back to the document where -- well, this is -- what you 14 testified is that CDK agreed not to access for five 15 years. It was just the "forever" part that they didn't 16 agree to, right? 17 MS. GULLEY: Objection; form. What's the 18 exhibit, as Mr. Ryan asked a while back. 19 MR. NEMELKA: 646. 20 Q. (By Mr. Nemelka) I'm reminding Mr. Brockman of 21 his testimony. 22 MS. GULLEY: Objection. That is not 23 correct. Objection to that statement. 24 Q. (By Mr. Nemelka) It says here, that we just 25 saw, "We have added" -- as we've -- as we've already</p>

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<p style="text-align: right;">Page 118</p> <p>1 done, "We have added after the 5 years they cannot 2 access the system on behalf of any 3rd party forever." 3 Do you recall that? 4 MS. GULLEY: Objection; form. 5 A. That -- that's what it says. That's what we're 6 asking for. We did not get that provision. 7 Q. (By Mr. Nemelka) Are you aware of how long 8 Section 4.5 lasts? 9 MS. GULLEY: Objection; form. 10 A. Again, I'll confess that I'm not an attorney 11 and I -- you know, as far as the duration of provisions, 12 I don't know what it says. 13 Q. (By Mr. Nemelka) All right. Let's go to 14 Section 6.1 of the agreement. Are you there with me? 15 6.1? 16 A. I'm sorry. I thought I was. 17 Q. Are you there with me? 18 A. Yes. 19 Q. "With the exception of the obligations set 20 forth in Sections 4.5" -- that was the section we were 21 just looking at, right, Mr. Brockman? 22 MS. GULLEY: Objection; form. 23 Q. (By Mr. Nemelka) 4.5 is the section we were 24 just looking at; correct? 25 MS. GULLEY: Form.</p>	<p style="text-align: right;">Page 120</p> <p>1 stand-down worked. You know, they, in fact, you know, 2 got out of our systems. They quit -- they quit hacking 3 them, you know. They quit -- quit being bandits. They 4 got out. 5 And we accomplished the transition such 6 that none of -- none of our mutual customers -- the 7 dealerships that are our mutual customers, where we got 8 the DMS but, you know, they've got a third party that's 9 been doing something else -- nobody got mad. Nobody 10 got -- I didn't get any letters. I didn't get any angry 11 phone calls. So, you know, whatever this document is 12 and whatever shortcomings it might have, it worked. 13 MR. NEMELKA: We can take lunch. 14 MS. GULLEY: Let's go off the record. 15 THE VIDEOGRAPHER: The time is 12:38 p.m. 16 We're off the record. 17 (Short recess 12:38 to 1:42 p.m.) 18 THE VIDEOGRAPHER: The time is 1:42 p.m. 19 We're back from lunch and we're back on the record. 20 EXAMINATION (Continuing) 21 BY MR. NEMELKA: 22 Q. Good afternoon, Mr. Brockman. 23 A. I'm sorry we don't have a prettier day for 24 you-all. 25 Q. It's still beautiful views.</p>
<p style="text-align: right;">Page 119</p> <p>1 A. Yes. "Prohibition of Knowledge Transfer." 2 Q. (By Mr. Nemelka) "And DMS Access." I know you 3 want to leave off the last part. But it says "and DMS 4 access"; correct? 5 MS. GULLEY: Objection; form. 6 MR. RYAN: Object to form. 7 MS. GULLEY: And move to strike the 8 instruction. 9 Q. (By Mr. Nemelka) "With the exception of the 10 obligations set forth in Sections 4.5" -- and it even 11 identifies it as "[Prohibition on Knowledge Transfer and 12 DMS Access]...this Agreement shall terminate at the end 13 of the Wind Down Period." 14 MS. GULLEY: Objection. 15 Q. (By Mr. Nemelka) So -- 16 A. I see what you're saying, but I've got to 17 reiterate again, okay? It's been a long war with ADP. 18 The long war is -- has finally settled, okay? I heave a 19 sigh of relief. My guys, their guys, our attorneys, 20 their attorneys, they build this document. It comes to 21 me for signature. And I said, "My God, I'm -- I'm 22 happy -- I'm happy to sign this damn thing and have it 23 off the list." You know, I did not read it, certainly 24 not at the level of detail that you're talking about. 25 You know, I would further support that the</p>	<p style="text-align: right;">Page 121</p> <p>1 A. It has been really pretty. 2 Q. So after Reynolds and CDK concluded the -- the 3 wind-down agreement, Reynolds then did release those 4 security enhancements that it had been holding off on; 5 correct? 6 MS. GULLEY: Form. 7 A. I'm not personally aware, but that's my -- 8 that's my belief. 9 Q. (By Mr. Nemelka) And after the agreement, 10 Reynolds protected the user IDs that CDK was using to 11 access the Reynolds system; is that right? 12 MS. GULLEY: Objection; form. 13 A. That was part of the stand-down agreement, and 14 it's my understanding that's now all over. 15 Q. (By Mr. Nemelka) So the security enhancements 16 did not affect CDK's access to the sys- -- to the 17 Reynolds system, right? 18 MS. GULLEY: Form. 19 A. That's correct. The whole goal of -- of the 20 stand-down agreement was to provide for an orderly 21 stand-down, and that -- and that meant enabling their 22 customers to operate without issue during the stand-down 23 period. 24 Q. (By Mr. Nemelka) But those security 25 enhancements did affect Authenticom, right?</p>

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<p style="text-align: right;">Page 122</p> <p>1 MS. GULLEY: Objection; form.</p> <p>2 A. I -- I'm not aware.</p> <p>3 Q. (By Mr. Nemelka) They were intended to, right?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. No. Again, our security enhancements are --</p> <p>6 are not specifically aimed at any individual entity.</p> <p>7 The problem is, we can't, because when we see things</p> <p>8 happening, people coming into our system, we don't know</p> <p>9 who they are and -- and we can't track who they are.</p> <p>10 And therefore, unless they have put in their user ID,</p> <p>11 something that identifies them, we don't know who they</p> <p>12 are.</p> <p>13 Q. (By Mr. Nemelka) After you entered into this</p> <p>14 agreement with CDK, you started to approve some --</p> <p>15 strike that.</p> <p>16 After you entered into the agreement with</p> <p>17 CDK, you believed that the logic had shifted somewhat</p> <p>18 with respect to pricing that you offered dealers who</p> <p>19 were coming on board, right?</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 A. I -- I disagree with that. I think that our --</p> <p>22 our position, as far as negotiating the discounts and</p> <p>23 whatever raised all the time. And it depends a lot on</p> <p>24 the overall macroeconomic situation that we're facing</p> <p>25 nationwide or, specifically, what the -- the certain</p>	<p style="text-align: right;">Page 124</p> <p>1 did I say? Schaefer?</p> <p>2 Q. (By Mr. Nemelka) Mr. Brockman, I've handed you</p> <p>3 Plaintiff's Exhibit 648. And the email I'm focusing on</p> <p>4 is your email dated Thursday, May 7th, 2015 to Agan,</p> <p>5 where you write, "The logic has shifted somewhat due to</p> <p>6 us getting the CDK RCI business (and soon to get</p> <p>7 Authenticomas [sic] well)." Do you see where you wrote</p> <p>8 that?</p> <p>9 MS. GULLEY: Form.</p> <p>10 A. Yes, I do.</p> <p>11 Q. (By Mr. Nemelka) And then you wrote, "A deal</p> <p>12 with numbers of dealerships will have a number of</p> <p>13 additional RCI 3rd parties where we get that revenue if</p> <p>14 we have those dealership's DMS systems." Do you see</p> <p>15 that?</p> <p>16 MS. GULLEY: Form.</p> <p>17 A. Yes, I do.</p> <p>18 Q. (By Mr. Nemelka) So the logic had shifted a</p> <p>19 little bit, because now you're going to be getting the</p> <p>20 additional RCI revenue if the dealers are using your</p> <p>21 DMS, right?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. I don't think this has anything to do with the</p> <p>24 percentage discounts on deals. This is obviously</p> <p>25 talking about customers.</p>
<p style="text-align: right;">Page 123</p> <p>1 states, certain market areas go through periods of</p> <p>2 tougher times, discounting various -- all over the</p> <p>3 point.</p> <p>4 Q. (By Mr. Nemelka) The logic had shifted</p> <p>5 somewhat due to you getting the CDK RCI business, right?</p> <p>6 MS. GULLEY: Form.</p> <p>7 A. I don't believe that's the case at all. I</p> <p>8 think that -- since I'm the one that's personally in</p> <p>9 charge of -- of approving this percentage discounts,</p> <p>10 they're part of the market conditions. The -- our</p> <p>11 competitors go through cycles. If you can watch, for</p> <p>12 instance, CDK -- CDK in the month or two before their</p> <p>13 year-end -- their fiscal year-end, they'll be much more</p> <p>14 aggressive in discounting.</p> <p>15 Other competitors have other, you know,</p> <p>16 closing of sales quota deadlines. And they get really</p> <p>17 aggressive just before the deadline, because they're</p> <p>18 trying to, you know, meet their quotas so they get their</p> <p>19 bonuses. And that's the drivers behind percentage</p> <p>20 discounts.</p> <p>21 (Exhibit 648 marked for identification?)</p> <p>22 Q. Mr. Schaefer, I've handed you Plaintiff's</p> <p>23 Exhibit 648 --</p> <p>24 MS. GULLEY: Brockman.</p> <p>25 MR. NEMELKA: Sorry. Mr. Brockman. What</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. (By Mr. Nemelka) Right. DMS customers;</p> <p>2 correct?</p> <p>3 A. Yes.</p> <p>4 Q. If you turn to the next page, I believe that</p> <p>5 Mr. Agan is asking you for your approval at the bottom.</p> <p>6 "Are you okay with a 55.38% discount?"</p> <p>7 MS. GULLEY: Form.</p> <p>8 Q. (By Mr. Nemelka) Do you see where he says</p> <p>9 that?</p> <p>10 A. I see that --</p> <p>11 MS. GULLEY: Objection; form.</p> <p>12 A. -- but I'm -- I'm reading the rest of it to see</p> <p>13 what, in context, that's all about. Could you repeat</p> <p>14 your question, please?</p> <p>15 Q. (By Mr. Nemelka) Sure. Mr. Agan asked you if</p> <p>16 you would approve of 55.38 percent discount for this</p> <p>17 dealer that you were trying to sign; correct?</p> <p>18 MS. GULLEY: Form.</p> <p>19 A. That's correct.</p> <p>20 Q. (By Mr. Nemelka) You approved it, because the</p> <p>21 logic had shifted somewhat, due to you getting the CDK</p> <p>22 RCI business and Authenticom's as well, right?</p> <p>23 MS. GULLEY: Objection; form.</p> <p>24 A. I think I've already, you know, said that those</p> <p>25 two sentences you said, that I see them.</p>

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<p style="text-align: right;">Page 126</p> <p>1 Q. (By Mr. Nemelka) Okay. Your contract with 2 CDK -- you can set that aside Mr. Brockman -- your 3 contract with CDK required Reynolds to take over all of 4 CDK's existing third-party relationships, regardless of 5 size; isn't that right? 6 MS. GULLEY: Form. 7 A. Third-party relationships where they were, you 8 know, hacking our systems, that's when I was talking 9 about. 10 Q. (By Mr. Nemelka) "Third parties," meaning the 11 vendors to whom CDK was providing Reynolds dealer data, 12 right? 13 MS. GULLEY: Form. 14 A. Yes, that's correct. 15 Q. (By Mr. Nemelka) You also wanted to take every 16 Authenticom customer that came to you, regardless of 17 size; correct? 18 MS. GULLEY: Objection; form. 19 A. I -- I don't think that's correct. 20 (Exhibit 649 was marked for 21 identification.) 22 Q. (By Mr. Nemelka) I've handed you what I've 23 marked as Plaintiff's Exhibit 649, which is an email 24 chain between you and Tommy Barras and Bob Schaefer. 25 And the email I want to focus on, Mr. Brockman, is the</p>	<p style="text-align: right;">Page 128</p> <p>1 Q. (By Mr. Nemelka) You wrote that; correct? 2 MS. GULLEY: Form. 3 A. Yes, I did. But I think that that was at -- at 4 a point in time that that's not been our policy ongoing, 5 regardless of size -- to take people -- take customers 6 that are -- regardless of size. You can look at our -- 7 our customer base, you know, we're predominantly larger 8 dealerships. 9 Q. (By Mr. Nemelka) Authenticom customers are 10 the -- are not dealerships. They're -- they're ven- -- 11 they're vendors, right? 12 MS. GULLEY: Form. 13 Q. (By Mr. Nemelka) Well, they're both, but the 14 customers you're talking about here are the vendors that 15 need access to dealer data, right? 16 MS. GULLEY: Form. 17 A. Yeah, but I think the -- certainly, you know, 18 those types of customers vary greatly in size as well. 19 Q. (By Mr. Nemelka) And so if -- if a vendor is 20 small and doesn't serve that many dealers, you're not 21 interested in -- in serving them, then? 22 MS. GULLEY: Form. 23 A. It's a matter of priority. We have, you know, 24 great development resources, but all development 25 resources are not without limit. And therefore, from</p>
<p style="text-align: right;">Page 127</p> <p>1 one that you sent on Friday, August 21st, 2015, at the 2 bottom, to Tommy Barras, where you write, "We also want 3 to take every Authenticom customer that comes to us, 4 regardless of size." It's at the bottom of that page. 5 Do you see that? 6 MS. GULLEY: Objection; form. 7 A. I think what's going on here is in -- as the -- 8 our agreement with CDK requires us to take over all 9 their existing third-party relationships. That's an 10 integral part of this stand-down. 11 Generally speaking, you know, we're not 12 interested in just anything, as far as size is 13 concerned. You know, small dealers are not, you know, 14 what our target market is. You know, we're -- we live 15 more in the larger dealer -- or larger group 16 marketplace. And so therefore, you know, the comments 17 as far as Authenticom is concerned, you know, they all 18 relate to size more than anything else. 19 Q. (By Mr. Nemelka) You wrote here, "We also want 20 to take every Authenticom customer that comes to us, 21 regardless of size"; correct? 22 MS. GULLEY: Objection; form. 23 Q. (By Mr. Nemelka) Very bottom, last -- the last 24 thing on the page. 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 129</p> <p>1 time to time, we get really busy and we get really 2 behind. And therefore, our -- our appetite for, you 3 know, small situations, you know, varies. 4 Q. (By Mr. Nemelka) In fact, after this agreement 5 with CDK, you had a lot of -- a lot of work to bring on 6 all of the former CDK customers into the RCI program, 7 right? 8 MS. GULLEY: Objection; form. 9 A. That's correct. 10 Q. (By Mr. Nemelka) You wrote that you had a 11 mountain of work ahead of you, with over 100 RCI 12 customers to convert, right? 13 MS. GULLEY: Form. 14 A. I believe at one point in time, that I -- I 15 made that statement because that was the case. 16 Q. (By Mr. Nemelka) And by mid-2017, two years 17 later, Reynolds had successfully converted many of those 18 former CDK vendors into the RCI program, right? 19 MS. GULLEY: Form. 20 A. I'm not sure about that specific date. But I 21 do know we made steady progress and... (Pause.) 22 (Exhibit 650 was marked for 23 identification.) 24 Q. (By Mr. Nemelka) I've handed you Plaintiff's 25 Exhibit 650, which is an email from Tommy Barras to you,</p>

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<p style="text-align: right;">Page 130</p> <p>1 dated Friday, July 7th, 2017. Who is Tommy Barras?</p> <p>2 MS. GULLEY: Form.</p> <p>3 A. Tommy Barras is head of our -- our software</p> <p>4 group.</p> <p>5 Q. (By Mr. Nemelka) And he wrote to you about CDK</p> <p>6 vendors that moved into the RCI program, right?</p> <p>7 A. That's correct.</p> <p>8 Q. And he writes, "Bob, In 2015 you challenged</p> <p>9 DEV" -- what is DEV, a development?</p> <p>10 A. Development.</p> <p>11 Q. Software development?</p> <p>12 A. Yes.</p> <p>13 Q. -- "and DSV" -- is that data services?</p> <p>14 A. That's correct.</p> <p>15 Q. -- "(Schaefer) with absorbing 157 CDK vendors</p> <p>16 into the RCI program." Do you see that?</p> <p>17 A. That's correct.</p> <p>18 Q. Now, these are not vendors that CDK owned.</p> <p>19 These are former CDK customers, right?</p> <p>20 MS. GULLEY: Form.</p> <p>21 A. That's correct. These -- these are companies</p> <p>22 that had been employing CDK to enter our system as, you</p> <p>23 know, hackers.</p> <p>24 Q. (By Mr. Nemelka) And as part of the wind-down,</p> <p>25 CDK worked with you to transition those customers to</p>	<p style="text-align: right;">Page 132</p> <p>1 made that request. You wanted to know how much</p> <p>2 Reynolds -- how much -- the amount of revenue that</p> <p>3 Reynolds was supposed to realize out of the deal, right?</p> <p>4 MS. GULLEY: Objection; form.</p> <p>5 A. That's correct. We -- we had -- as I think</p> <p>6 we've -- before lunch, I talked about the fact that we</p> <p>7 had -- CDK had cost us a lot of -- a lot. And, you</p> <p>8 know, we were hoping to make back these, you know,</p> <p>9 third-party vendors coming directly to us through the</p> <p>10 RCI program as opposed to going through CDK. That was</p> <p>11 our way to ultimately dig out of the hole, you know,</p> <p>12 from a -- a money standpoint that we had been put</p> <p>13 through by CDK.</p> <p>14 Q. (By Mr. Nemelka) You testified earlier they</p> <p>15 cost you millions in this form of -- market -- market</p> <p>16 messaging about data security and losing dealer</p> <p>17 customers, right?</p> <p>18 A. It's cust- --</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 You just have to let him finish his</p> <p>21 question and then you can answer.</p> <p>22 A. That consists of the revenue we lost by</p> <p>23 customers that we should have been able to sell but</p> <p>24 couldn't sell, or customers -- which was the -- the more</p> <p>25 minor group, customers that actually left us because</p>
<p style="text-align: right;">Page 131</p> <p>1 Reynolds so that they could join the RCI program;</p> <p>2 correct?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. That's correct.</p> <p>5 Q. (By Mr. Nemelka) And it was CDK's access to</p> <p>6 the Reynolds system on behalf of those customers that</p> <p>7 you protected during that five-year wind-down period,</p> <p>8 correct?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. That's correct.</p> <p>11 Q. (By Mr. Nemelka) You asked Mr. Schaefer to</p> <p>12 calculate the amount of revenue that Reynolds was</p> <p>13 supposed to realize out of this agreement with CDK,</p> <p>14 right?</p> <p>15 MS. GULLEY: Objection; form.</p> <p>16 A. I don't know that I asked that specifically of</p> <p>17 Bob Schaefer.</p> <p>18 Q. (By Mr. Nemelka) You asked -- you asked</p> <p>19 somebody on -- on your team to calculate the amount of</p> <p>20 revenue that Reynolds was supposed to realize out of the</p> <p>21 CDK deal, right?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 A. I don't recall who that was, but it may well</p> <p>24 have -- it may well have occurred.</p> <p>25 Q. (By Mr. Nemelka) Regardless of who it was, you</p>	<p style="text-align: right;">Page 133</p> <p>1 of -- because of security.</p> <p>2 Q. (By Mr. Nemelka) And those customers you're</p> <p>3 referring to are the dealers, not --</p> <p>4 A. That's right.</p> <p>5 MS. GULLEY: Objection; form.</p> <p>6 Just -- just -- for the court reporter and</p> <p>7 for the record, he'll ask his question and then you</p> <p>8 answer.</p> <p>9 MR. NEMELKA: We're doing okay, but --</p> <p>10 Q. (By Mr. Nemelka) And -- excuse me -- your team</p> <p>11 did calculate the val- -- the amount of revenue that</p> <p>12 Reynolds was supposed to realize out of the CDK deal,</p> <p>13 right?</p> <p>14 MS. GULLEY: Form.</p> <p>15 A. I see that you're referring to documents that</p> <p>16 I'm not -- I'm not having the opportunity to look at.</p> <p>17 Q. (By Mr. Nemelka) Well, I'm just wondering --</p> <p>18 you remember if you made this request, and your team did</p> <p>19 actually make that calculation; correct?</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 A. Yes, I believe they did. It looks like -- if</p> <p>22 that's what you're looking at. It's not being shared</p> <p>23 with me, which -- which I find, you know, a little</p> <p>24 unusual.</p> <p>25 Q. (By Mr. Nemelka) All right. I'm just trying</p>

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<p style="text-align: right;">Page 134</p> <p>1 to get -- get through this efficiently. I'm not trying 2 to do anything else. 3 MS. GULLEY: Objection to the statement. 4 Q. (By Mr. Nemelka) Okay. Well, then, let's do 5 -- 6 MR. NEMELKA: 69. 7 (Exhibit 651 was marked for 8 identification.) 9 Q. (By Mr. Nemelka) I truly am only going to show 10 you that one part about the -- this is a big, long 11 document -- I'm only going to show you -- or ask you 12 about the part that we just talked about, which is the 13 team calculating the value of the CDK deal with you. If 14 you intend on reading this whole thing, then I'll just 15 skip. So I'm -- 16 THE WITNESS: What's that about? 17 MS. GULLEY: I object to everything you 18 just said: Statements, instructions, et cetera. But 19 first of all, can you at least hand it to him? 20 Q. (By Mr. Nemelka) I'd like to mark Exhibit -- 21 Plaintiff's Exhibit 651, which is an email from Craig 22 Moss to you, Mr. Brockman, dated Friday, August 25th, 23 2017, the subject being "July 2017 Financials." Do you 24 see that that's the subject, at least, of this? 25 MS. GULLEY: Form.</p>	<p style="text-align: right;">Page 136</p> <p>1 MS. GULLEY: Objection; form. 2 A. -- in 10 to 12 years, we might break out. 3 Q. (By Mr. Nemelka) What do you mean by that? 4 MS. GULLEY: Form. 5 A. Well, as -- as I've stated before, CDK's 6 position, as far as hacking our customers, has cost us 7 millions. And, you know, based upon this amount of 8 money, we got a ways to go. 9 Q. (By Mr. Nemelka) The annual revenue, though, 10 is 30 million, that they calculated, correct? 11 MS. GULLEY: Objection; form. 12 A. That's what it says. 13 Q. (By Mr. Nemelka) And that includes added 14 interfaces, which means additional RCI customers, right? 15 MS. GULLEY: Form. 16 A. No. I don't think that -- "additional 17 interfaces" means additional datasets that third parties 18 would want out of Reynolds systems. 19 Q. (By Mr. Nemelka) That they were getting from 20 CDK before? 21 MS. GULLEY: Form. 22 A. No. It's kind of like pitter-patter, like the 23 rain. Either OEMs or various third parties want more 24 data or different types of data, and it's not related to 25 the -- the stand-down agreement at all. It's just part</p>
<p style="text-align: right;">Page 135</p> <p>1 Q. (By Mr. Nemelka) Mr. Brockman? 2 MS. GULLEY: Form. 3 A. If I can just kind of leaf through what -- what 4 this... (Pause.) 5 This appears to be part of our confidential 6 internal financial information. And so, therefore, it's 7 okay that I don't have to read every page of it. 8 Q. (By Mr. Nemelka) Thank you. So you received 9 monthly financials like this from Mr. Moss? 10 MS. GULLEY: Form. 11 A. They're not financial statements. They're 12 management reports concerning the finances. That's the 13 technically accurate description. 14 Q. (By Mr. Nemelka) And this is one from July 15 2017, that you received? 16 MS. GULLEY: Form. 17 A. Yes. 18 Q. (By Mr. Nemelka) And if you could turn with me 19 to Page 17. There you are. On the bottom-highlighted 20 part, which is how it was produced to us -- you see the 21 bottom-highlighted part that says, "We are expecting an 22 annual revenue of approximately \$30 million (original 23 \$21M, plus additional dealers, added interfaces and 24 price increases, etc) generated from the CDK Deal." 25 A. Yeah, that means that --</p>	<p style="text-align: right;">Page 137</p> <p>1 of their, you know, their desire for more data. 2 Q. (By Mr. Nemelka) And now that they're 3 customers of Reynolds, you get the financial benefit of 4 that; correct? 5 MS. GULLEY: Form. 6 A. That's correct. 7 Q. (By Mr. Nemelka) I skipped one. "Plus 8 additional dealers," meaning -- what -- what does that 9 mean? 10 MS. GULLEY: Objection; form. 11 A. Well, what I believe that means is -- and 12 that's that there's constant movement as far as 13 ownership of dealerships. And if we have a group that 14 has dealerships in it and they're all on Reynolds, if 15 that dealer buys another dealer, so they -- he now has 16 11, what's going to happen is -- and that's if that 17 dealer is not already on Reynolds -- he's going to 18 convert to Reynolds, likely, and vice versa. 19 If there's a group of -- of ten 20 dealerships, all of which are on CDK, and they buy 21 another dealership that's on Reynolds, you know, the 22 odds are very, very, very high that that dealership will 23 be converted to CDK. And all that has some impact on 24 what's going on in the world. 25 Q. (By Mr. Nemelka) And then you list price,</p>

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<p style="text-align: right;">Page 138</p> <p>1 here -- what is listed here is price increases. So</p> <p>2 price increases for -- for DMS and RCI?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. It's just -- it's part of our standard</p> <p>5 pricing-based process.</p> <p>6 Q. (By Mr. Nemelka) But the price increases here</p> <p>7 would have referred to price increases for DMS, right?</p> <p>8 MS. GULLEY: Objection; form.</p> <p>9 A. Our price increase policy covers all -- all</p> <p>10 products, you know, all services.</p> <p>11 Q. (By Mr. Nemelka) What is your price increase</p> <p>12 policy?</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. It is -- you know, typically CPI plus 2, which</p> <p>15 represents the normal rate of CPI plus those things that</p> <p>16 cost us extra, because we're in the high tech business.</p> <p>17 Principally, salaries.</p> <p>18 Q. (By Mr. Nemelka) So you -- so for your DMS</p> <p>19 business, your standard price increases every year is</p> <p>20 CPI plus 2 percent?</p> <p>21 A. That's correct.</p> <p>22 MS. GULLEY: Form.</p> <p>23 Q. (By Mr. Nemelka) And for -- okay.</p> <p>24 And this 30 million is an annual number,</p> <p>25 it's not -- you said over 10 to 12 years. That -- that</p>	<p style="text-align: right;">Page 140</p> <p>1 Q. (By Mr. Nemelka) CDK doesn't badmouth your</p> <p>2 data access policies anymore, does it?</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. It's not been as prevalent as it was before.</p> <p>5 Q. (By Mr. Nemelka) That badmouthing large- --</p> <p>6 largely stopped after you entered into this agreement</p> <p>7 with them, right?</p> <p>8 MS. GULLEY: Objection; form.</p> <p>9 A. Again, I have no way of measuring that.</p> <p>10 Q. (By Mr. Nemelka) It wasn't just CDK and</p> <p>11 Authenticom that you wanted to get -- get rid of. You</p> <p>12 wanted to get rid of all independent data integrators</p> <p>13 that dealers were using for automated access to the</p> <p>14 Reynolds -- Reynolds system; correct?</p> <p>15 MR. RYAN: Object to form.</p> <p>16 A. I -- I definitely want to eliminate, you know,</p> <p>17 completely, you know, all automated access to Reynolds</p> <p>18 systems. It's -- it is a classic security breach.</p> <p>19 Q. (By Mr. Nemelka) Could Reynolds -- could CDK</p> <p>20 access your system today with their independent</p> <p>21 integrators?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 MR. RYAN: Objection; form.</p> <p>24 A. When you say "independent integrators," I don't</p> <p>25 recognize that term.</p>
<p style="text-align: right;">Page 139</p> <p>1 30 million is not over 10 to 12 years. That 30 million</p> <p>2 is an annual number, right?</p> <p>3 A. That's not what I meant at all. When I say</p> <p>4 that CDK has cost us in the millions, I'm not talking</p> <p>5 about the 30 or 40 or 50 million, I'm talking in the</p> <p>6 hundreds of millions, over time. And, you know, so it</p> <p>7 takes a while before \$30 million worth of revenue out of</p> <p>8 this particular situation even begins to make up for</p> <p>9 what they've done.</p> <p>10 Q. You said 10 to 12 years, so 30 times 10, about</p> <p>11 300 to \$360 million?</p> <p>12 A. Absolutely.</p> <p>13 MS. GULLEY: Objection; form.</p> <p>14 A. Absolutely.</p> <p>15 Q. (By Mr. Nemelka) Is what CDK cost you as a</p> <p>16 result of them -- their data access on the Reynolds</p> <p>17 system?</p> <p>18 A. Yeah, and the fact that they badmouthed, you</p> <p>19 know, our process, I think, unjustifiably. And they --</p> <p>20 and they did that, you know, high and wide, you know, in</p> <p>21 the -- in the market.</p> <p>22 Q. Badmouthing your data access policies in the</p> <p>23 market; is that right?</p> <p>24 MS. GULLEY: Objection; form.</p> <p>25 A. That's correct.</p>	<p style="text-align: right;">Page 141</p> <p>1 Q. (By Mr. Nemelka) Meaning DMI and Integra</p> <p>2 Link!.</p> <p>3 MS. GULLEY: Objection; form.</p> <p>4 A. The people -- the guys that are in the hacking</p> <p>5 business, the bandits?</p> <p>6 Q. (By Mr. Nemelka) Yeah.</p> <p>7 A. Yeah, I don't know. As I've said before, you</p> <p>8 know, security is a cat-and-mouse game, and it could</p> <p>9 well be that they, you know, figured out some new way,</p> <p>10 and it's -- where I -- it's not discernible to us who it</p> <p>11 actually is. It could be in there today and --</p> <p>12 because that's the nature of it, of -- of the situation.</p> <p>13 You know, somebody on the outside figures</p> <p>14 out a new way to come in. We don't know who it is. You</p> <p>15 know, we figure out how to block it. You know, the only</p> <p>16 way we know for sure, you know, was when somebody</p> <p>17 squawks.</p> <p>18 Q. One of the independent integrators was</p> <p>19 StoneEagle; correct?</p> <p>20 MS. GULLEY: Objection; form.</p> <p>21 A. Yes.</p> <p>22 Q. (By Mr. Nemelka) I've handed you Plaintiff's</p> <p>23 Exhibit 652.</p> <p>24 (Exhibit 652 was marked for</p> <p>25 identification.)</p>

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<p style="text-align: right;">Page 142</p> <p>1 Q. (By Mr. Nemelka) This is an email from you to 2 Mr. Schaefer, dated April 14, 2016. And your question 3 is: "Bob, When do we get rid of StoneEagle?" And 4 that's referring to not allowing them to access dealer 5 data on the Reynolds DMS anymore, right? 6 MS. GULLEY: Objection; form. 7 A. That -- that's correct. We are -- we are now, 8 finally -- you know, StoneEagle has joined the RCI 9 program, and they had to make a -- a number of changes 10 in their software, and all that's been accomplished. 11 And they're now a -- in a peaceful situation as far as 12 we're concerned. They're -- they're in the RCI program. 13 They're getting their data. They're getting their 14 business done. 15 Q. (By Mr. Nemelka) For a while, Reynolds had 16 been protecting their access to the -- to -- to the 17 system; correct? 18 MS. GULLEY: Objection; form. 19 A. It -- it is -- it is typical in the situation 20 where we have a -- a -- a party, which is doing like 21 StoneEagle was, which is, basically, hacking in. And 22 they say, "Oh, well, we're sorry. We'll do better. 23 We'll sign up for RCI." And they do, but they don't get 24 it done. They -- they don't -- they don't make the 25 changes in on their side that's necessary for them to</p>	<p style="text-align: right;">Page 144</p> <p>1 was their method. They -- they were doing it all on 2 their own. You know, this indicates, you know, what 3 I've been saying all along. We were very, very 4 frustrated by these people. And I think this one line 5 here, which says, "I think its 2 years now we've been 6 strung out....." -- we were not happy. 7 Q. Mr. Brockman, in 2015, you asked Mr. Schaefer 8 about -- questions about the state of affairs before 9 Authenticom got cut -- got shut off. You wanted to know 10 how many DMS providers' data does Authenticom provide 11 Reynolds. Two, and how many dealerships for each DMS 12 providers was Authenticom serving Reynolds apps with? 13 Do you recall asking Mr. Schaefer to compile that 14 information? 15 MS. GULLEY: Objection; form. 16 A. Not specifically, but I would -- not be unusual 17 for me to ask that. 18 (Exhibit 654 was marked for 19 identification.) 20 Q. (By Mr. Nemelka) Mr. Brockman, I've handed you 21 Plaintiff's Exhibit 654, which is an email from 22 Mr. Schaefer to you, dated Friday, November 20th, 2015. 23 I will give you a chance to look at it, but your email 24 to him starts the chain on the back page. 25 A. I'm looking on the back page. If you recall,</p>
<p style="text-align: right;">Page 143</p> <p>1 access through the RCI program, and so they linger in 2 this, you know, this -- this in-between mode. And, you 3 know, of all the -- the one's where that issue came up, 4 StoneEagle was the worst. And it is with a sigh of 5 relief that that's fixed, done, over with. 6 (Exhibit 653 was marked for 7 identification.) 8 Q. (By Mr. Nemelka) I've handed you Plaintiff's 9 Exhibit 653, which is an email from you to Mr. Schaefer, 10 dated Wednesday, April 19, 2017, where you write to 11 Mr. Schaefer, "Bob, Give them written notice that we 12 will shut down their current method of access for 13 security reasons on June 1, 2017." And that referred to 14 StoneEagle; correct? 15 A. That first email doesn't say that it's 16 StoneEagle, but I believe in context with the second 17 email, it does indicate that it is StoneEagle. 18 Q. And up to the time, and for -- for several 19 years, their method of access had been protected while 20 they were applying for the RCI program, right? 21 MS. GULLEY: Objection; form. 22 A. That's correct. 23 Q. (By Mr. Nemelka) And their method of access 24 was -- I'm sorry, Mr. Brockman. 25 A. I don't understand their method of access. It</p>	<p style="text-align: right;">Page 145</p> <p>1 earlier today, I mentioned the term "ReminderTrax." 2 Q. Mm-hmm. 3 A. It's a -- it's a service reminder program for 4 dealerships, to remind their -- their customers to come 5 back in and have oil changed or other routine 6 preventative maintenance. And I said that, you know, 7 that was a very minor thing that was going on, and it 8 talks -- right here, it says, "16 CDK dealers," which, 9 in the scope of things, is -- is a very, very small 10 situation. 11 Q. Mr. Sch- -- Brockman, if you look at the first 12 page, though, it's identified "ReminderTrax." There's 13 199 CDK connections that Authenticom provides. Do you 14 see that? 15 MS. GULLEY: Objection; form. 16 A. Can you point that one out to me? 17 Q. (By Mr. Nemelka) Sure. 18 A. I'm not -- 19 Q. Right there (indicating). 20 A. Okay. 21 MS. GULLEY: Objection; form. 22 A. Okay, I stand corrected. 23 Q. (By Mr. Nemelka) And what's listed here 24 are the various Reynolds applications -- are the -- are 25 the columns, MMS, AIMDATA, ReminderTrax, IMN and so</p>

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<p style="text-align: right;">Page 146</p> <p>1 forth, right?</p> <p>2 MS. GULLEY: Form.</p> <p>3 Q. (By Mr. Nemelka) Those are the columns?</p> <p>4 MS. GULLEY: Form.</p> <p>5 Q. (By Mr. Nemelka) Is that right?</p> <p>6 MS. GULLEY: Form.</p> <p>7 A. Okay. Would you repeat that again?</p> <p>8 Q. (By Mr. Nemelka) Sure. These datas</p> <p>9 along these -- companies along the top, MMS, AIMDATA,</p> <p>10 ReminderTrax, IMN, Xstream, OnlineD and KeyTrack, those</p> <p>11 are Reynolds applications; correct?</p> <p>12 A. Correct.</p> <p>13 Q. And on the left are the DMSs that dealers use;</p> <p>14 correct?</p> <p>15 A. Yes. Okay. I -- I understand that now.</p> <p>16 Q. And what this is showing is the connections</p> <p>17 that Authenticom provides to the dealers using these</p> <p>18 DMSs; correct?</p> <p>19 MS. GULLEY: Objection; form.</p> <p>20 Q. (By Mr. Nemelka) For -- for these various</p> <p>21 applications?</p> <p>22 MS. GULLEY: Objection; form.</p> <p>23 Q. (By Mr. Nemelka) Is that correct?</p> <p>24 MS. GULLEY: Form.</p> <p>25 A. For instance, if he looks at the CDK line,</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. And you say, "What DMS provider's data does</p> <p>2 Authenticom provide to us?" Do you see that?</p> <p>3 A. Yeah, but, you know, you keep referring to the</p> <p>4 CDK line, and that's not the Authenticom line.</p> <p>5 Q. Right. But -- but your question was: How many</p> <p>6 dealerships are there from each DMS provider that</p> <p>7 Authenticom provides you with access?</p> <p>8 A. Okay. But --</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. Okay. But the point that I'm -- I'm not -- I'm</p> <p>11 not getting is -- is what does Authenticom have to do</p> <p>12 with the CDK line on -- on this -- on this chart? These</p> <p>13 are -- it appears to me, that these are dealership's</p> <p>14 data that CDK is providing to ReminderTrax. For</p> <p>15 instance, that 199 number. ReminderTrax is -- is the</p> <p>16 Reynolds application, and the 199 is -- is the</p> <p>17 dealerships that -- where CDK has been -- has been</p> <p>18 serving up -- up to that application. Authenticom is --</p> <p>19 is not related to that line.</p> <p>20 Q. (By Mr. Nemelka) Well, we can ask Mr. Schaefer</p> <p>21 what he did here. My understanding was that he is</p> <p>22 providing with you the number -- he's answering your</p> <p>23 questions, which is: "The state of affairs before</p> <p>24 Authenticom got cut off," "What DMS provider's data does</p> <p>25 Authenticom provide to us?" and "How many dealerships</p>
<p style="text-align: right;">Page 147</p> <p>1 that's where the 199 number is. And I -- I'm afraid I'm</p> <p>2 not getting what you're trying to get at as far as</p> <p>3 this -- this chart is concerned.</p> <p>4 Q. (By Mr. Nemelka) All right. Well, just --</p> <p>5 what Mr. Schaefer is reflecting here are the number</p> <p>6 of -- he's answering your question, which is: "What DMS</p> <p>7 provider's data does Authenticom provide to us? How</p> <p>8 many dealerships are there from each DMS provider?"</p> <p>9 Those are the questions that you asked on the email that</p> <p>10 we looked at, right?</p> <p>11 MS. GULLEY: Form.</p> <p>12 A. You -- you keep referring to the CDK line.</p> <p>13 What's that got to do with Authenticom?</p> <p>14 Q. (By Mr. Nemelka) These are the CDK -- numbers</p> <p>15 of -- that the dealers that use CDK for whom Authenticom</p> <p>16 is providing access to that data for these Reynolds</p> <p>17 applications.</p> <p>18 MS. GULLEY: Objection; form. Is that a</p> <p>19 question?</p> <p>20 Form.</p> <p>21 Q. (By Mr. Nemelka) If you look back at your</p> <p>22 que- -- at your email, you say, "Bob, Questions on the</p> <p>23 state of affairs before Authenticom got shutoff....."</p> <p>24 Do you see that? Your email to Mr. Schaefer?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 149</p> <p>1 are there from each DMS provider" for that?</p> <p>2 MS. GULLEY: Objection to that.</p> <p>3 A. Okay.</p> <p>4 MS. GULLEY: There's no question.</p> <p>5 A. I -- I understand the question. I just don't</p> <p>6 see where that answer is -- the CDK line on the first</p> <p>7 page.</p> <p>8 Q. (By Mr. Nemelka) Okay. We'll ask Mr. Schaefer</p> <p>9 about that. You can put that aside.</p> <p>10 Mr. Schaefer, are you aware --</p> <p>11 MS. GULLEY: Mr. Brockman.</p> <p>12 MR. NEMELKA: I'm sorry. Strike that.</p> <p>13 Q. (By Mr. Nemelka) Mr. Brockman, are you aware</p> <p>14 that -- that Reynolds has an ERA DMS expiration</p> <p>15 opportunity close date list with respect to dealer</p> <p>16 customers?</p> <p>17 MS. GULLEY: Objection; form.</p> <p>18 A. An ERA EXT?</p> <p>19 Q. An ERA DMS expirations and opportunity close</p> <p>20 dates.</p> <p>21 MS. GULLEY: Objection; form.</p> <p>22 A. I'm -- I'm not familiar with any kind of</p> <p>23 list with that kind of nomenclature. We've got lots of</p> <p>24 lists, but...</p> <p>25 Q. (By Mr. Nemelka) All right. A list of those</p>

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<p style="text-align: right;">Page 150</p> <p>1 dealers that have DMS contracts coming up for renewal 2 within the next six months? 3 A. Okay. You're talking about, you know, contract 4 expiration. 5 Q. Yes. 6 A. Okay. Okay, I understand that term. 7 Q. And Reynolds keeps a list of those dealers that 8 are coming up for renewal in six months, right? 9 A. That's right. 10 Q. And Reynolds has protected those dealers who 11 use independent integrators like Authenticom from any 12 type of interference with that during that six-month 13 window; correct? 14 MS. GULLEY: Form. 15 A. I -- I think we have done some of that. I 16 don't know that policy is still in place, but I know as 17 part of the -- the process of unwinding hacker-type kind 18 of relationships, that what we've done is, is we've -- 19 we've taken measures to keep the things quiet from a 20 customer's standpoint while we're in -- you know, 21 contract renewal negotiation process. 22 Q. (By Mr. Nemelka) And then once you close on 23 that contract, then you stop that dealer from using the 24 independent integrators, right? 25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 152</p> <p>1 customer is -- is allowed to, unknowingly, kind of step 2 off into a hole where response time is going to be 3 terrible throughout the whole system because they let 4 too many things get going. 5 And what -- what this is -- is this 6 typically is a battle between the accounting department 7 and the parts and service departments. Because the 8 accounting department's end-of-month, they have all 9 manner of big, long, huge reports they want to run, and 10 they can basically gobble the capacity of the -- of the 11 server completely so that the people in the parts 12 department, when they're doing -- they're selling parts, 13 printing invoices, whatnot, service advisors are writing 14 repair orders and printing service invoices -- their 15 response time is terrible. 16 So there is a -- a place inside the Linux 17 operating system where you can go and interrogate and 18 see how busy the whole system is. And syscheck, what it 19 does is in essence that it goes and checks that area, 20 you know, meter -- think of it as a meter -- checks that 21 meter to see how busy things are. Things are too busy, 22 it will not let somebody -- a user start a batch job, 23 because if they do, they're going to destroy, you know, 24 response times for the parts department and the service 25 department. That's what syscheck is all about. It</p>
<p style="text-align: right;">Page 151</p> <p>1 A. I think at that point in time, we -- we 2 recommend more -- more strongly that they -- that they 3 look at their -- their data security policies. 4 Q. (By Mr. Nemelka) After closing of the 5 contract? 6 MS. GULLEY: Objection; form. 7 A. It's an opportune time for that discussion to 8 occur. 9 Q. (By Mr. Nemelka) And if they want to continue 10 to use independent integrators after the closing of the 11 contract, did you -- did you let them? 12 MS. GULLEY: Objection; form. 13 A. Not over a long period. 14 Q. (By Mr. Nemelka) Mr. Brockman, what is 15 syscheck? Syscheck, s-y-s-c-h-e-c-k? 16 MS. GULLEY: Form. 17 A. I understand about this one. The -- the 18 operating system that we use on the computers that 19 operate the Arrow system -- it's Linux -- and Linux has 20 an interesting attribute in that -- let's say you have a 21 30-user system. Linux will allow you to start running 22 30 -- what we call "batch jobs." This will be, like, 23 end-of-month, general ledger, schedules, parts ordering, 24 that sort of thing. 25 What's happens is -- and that's that the</p>	<p style="text-align: right;">Page 153</p> <p>1 works really good. 2 Q. (By Mr. Nemelka) And you wrote that syscheck 3 would be a way that we randomly cause Authenticom some 4 grief. How would you cause Authenticom grief through 5 syscheck? 6 MS. GULLEY: Objection; form. 7 A. Because the -- they run batch jobs in order to, 8 you know, get their -- get their business done, and 9 syscheck does not know that it's -- it's -- it's 10 Authenticom doing things. All they know is that 11 somebody is asking for a batch job and the system is 12 already too busy. 13 (Exhibit 655 was marked for 14 identification.) 15 Q. (By Mr. Nemelka) I've handed you Plaintiff's 16 Exhibit 655, which is an email from you to Tommy Barras, 17 dated August 15, 2017. And the subject of the email is 18 "Great day," and he's giving you an update on exemption 19 numbers; correct? 20 A. That's correct. 21 Q. And these exemptions are user IDs that Reynolds 22 had exempted for various data access points; correct? 23 MS. GULLEY: Form. 24 A. That's correct. 25 Q. (By Mr. Nemelka) And what he says is, "Today</p>

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<p style="text-align: right;">Page 154</p> <p>1 is a good day from the security standpoint. Number of 2 exemption dropped from 932 to 526 in one week." So 3 as -- in August 14, 2017, you still had 932 exempt user 4 IDs, but that dropped to 527 in one week? Is that what 5 he's saying here? 6 MS. GULLEY: Form. 7 A. That's correct. 8 Q. (By Mr. Nemelka) And then, at the end he 9 writes, "Been a long road but we went from 12,000[+] 10 exemptions at the beginning to just over 500 ten years 11 later." Do you see that? 12 MS. GULLEY: Form. 13 A. Yes, I do. 14 Q. (By Mr. Nemelka) And then you respond, "I 15 agree - it has been a long pull - good to get there." 16 Right? 17 MS. GULLEY: Form. 18 A. Umm... (Pause.) 19 Q. (By Mr. Nemelka) Your email at the very top? 20 A. Okay. Yes. That -- that's what it says. It 21 has been a very long haul. 22 Q. All right. 23 A. A long haul. And frankly, by now -- it's now 24 down -- I think it's 300 or less. 25 Q. Today?</p>	<p style="text-align: right;">Page 156</p> <p>1 interface which is where the third party is -- is asking 2 something to be done within our software. And the 3 classic example of that is Xtime. You know, Xtime, in 4 order for their software to work, they have to be able 5 to create reservation records. And they have to be able 6 to look at, you know, service history. 7 Those types of applications, since they're 8 actually part of our software, in order -- you know, for 9 their application to -- to work, you know, their RCI to 10 work, they got to keep doing it forever. As long as 11 Xtime does what Xtime does, you know, they have to do it 12 within our system. 13 Q. (By Mr. Nemelka) And what if they were to get 14 cut off by Reynolds? What -- what -- how would they -- 15 how would they operate? 16 MS. GULLEY: Objection; form. 17 A. Well, since their -- their -- their stuff 18 actually runs inside our software, you know, they would 19 basically be unable to use our software to accomplish, 20 you know, what they do today. 21 Q. (By Mr. Nemelka) You believe that the Reynolds 22 DMS product is -- is a sticky product, right? 23 MS. GULLEY: Objection; form. 24 A. I don't think I've ever used that term in 25 relationship to the DMS. I've used that -- that term in</p>
<p style="text-align: right;">Page 155</p> <p>1 A. Today, uh-huh. I will not be completely happy 2 until it's zero. 3 Q. And these exemptions are the protected user 4 IDs, right? 5 MS. GULLEY: Objection; form. 6 A. That's correct. 7 Q. (By Mr. Nemelka) Mr. Brockman, you believed 8 that for vendors to truly make their apps work, they're 9 going to require RCI interface forever from Reynolds, 10 and the equivalent from CDK as well, right? 11 MS. GULLEY: Form. 12 A. I -- I think that would depend entirely on the 13 type of interface. And by that, there is -- there are 14 certain interfaces that are what we call "batch jobs." 15 And -- you know, these are situations where our 16 reporting software will, you know, with ease, you know, 17 create the data extracts that the dealer's looking for 18 for these types of -- of batch jobs, where they can -- 19 they can run that batch job, you know, themselves and 20 send it off themselves to whoever -- you know, we -- 21 there's no restriction on that. 22 But if they want it to be done conveniently 23 and happen every day with hands off, or whatever, that's 24 where RCI interface takes place. 25 Now, there's -- there's a second type of</p>	<p style="text-align: right;">Page 157</p> <p>1 relationship to specific products. By "stickiness," 2 what I mean is -- is they're so advantageous to the 3 dealership from a financial standpoint that they would 4 be -- they would have to think hard about changing to 5 another DMS provider. 6 Q. (By Mr. Nemelka) And what you're referring to 7 is the collection of the DMS, along with docuPAD and the 8 other applications, as you were describing, that form 9 the -- the retail management system; correct? 10 MS. GULLEY: Objection; form. 11 A. That's -- that's close. Okay? That's not 12 exactly correct, but it's pretty close. 13 Q. (By Mr. Nemelka) Okay. So finish it for me. 14 What did I miss? 15 MS. GULLEY: Form. 16 A. Well, we talk about stickiness in regards to 17 specific products, like docuPAD, for instance. You 18 know, we don't refer to the RMS itself as being -- which 19 is the collection of everything -- as being sticky. We 20 talk about specific products. 21 MS. GULLEY: Were you done with your 22 answer? 23 THE WITNESS: Yeah. 24 MS. GULLEY: Okay. 25 MR. NEMELKA: I wasn't starting to ask a</p>

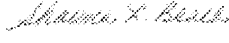
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<p style="text-align: right;">Page 158</p> <p>1 question.</p> <p>2 Q. (By Mr. Nemelka) And you believe that the</p> <p>3 value in your sticky products is so huge as to overcome</p> <p>4 any economic advantage offered by CDK and Cox in their</p> <p>5 offerings; correct?</p> <p>6 MS. GULLEY: Objection to the form.</p> <p>7 A. I believe that statement to be correct.</p> <p>8 Q. (By Mr. Nemelka) Let's go off the record.</p> <p>9 THE VIDEOGRAPHER: This is the end of Media</p> <p>10 2. The time is 2:34 -- I'm sorry, 2:35 p.m. We're off</p> <p>11 the record.</p> <p>12 (Short recess 2:35 to 2:50 p.m.)</p> <p>13 THE VIDEOGRAPHER: This is the beginning of</p> <p>14 Media 3. The time is 2:50 p.m. We're back on the</p> <p>15 record.</p> <p>16 (Exhibit 656 was marked for</p> <p>17 identification.)</p> <p>18 Q. (By Mr. Nemelka) Mr. Brockman, I just wanted</p> <p>19 to show you the document where you made that statement</p> <p>20 about stickiness. It's Plaintiff's Exhibit 656.</p> <p>21 MS. GULLEY: I object to the statement.</p> <p>22 Q. (By Mr. Nemelka) This is an email that you</p> <p>23 sent to Keith Hill, Tuesday, November 28, 2017. Do you</p> <p>24 see that?</p> <p>25 MS. GULLEY: Objection; form.</p>	<p style="text-align: right;">Page 160</p> <p>1 docuPAD, pays my entire bill."</p> <p>2 Q. (By Mr. Nemelka) And they have to have the</p> <p>3 Reynolds DMS in order to use docuPAD; correct?</p> <p>4 A. That's correct.</p> <p>5 Q. So that helps with the stickiness of the</p> <p>6 Reynolds DMS; correct?</p> <p>7 MS. GULLEY: Objection; form.</p> <p>8 A. That's correct.</p> <p>9 Q. (By Mr. Nemelka) Okay. You can set that</p> <p>10 aside.</p> <p>11 Mr. Brockman, my last few questions are</p> <p>12 just about your -- your email accounts. You -- you've</p> <p>13 seen that we have an email account for -- for your</p> <p>14 Reynolds business, right?</p> <p>15 A. I only have one email account, period.</p> <p>16 Q. You don't have -- do you have any other -- do</p> <p>17 you have, like, a Gmail account?</p> <p>18 A. No.</p> <p>19 Q. The only email account you use is the -- is the</p> <p>20 single Reynolds?</p> <p>21 A. That has all of my personal data in it.</p> <p>22 Q. And -- so all of your personal emails go</p> <p>23 through your -- your Reynolds email account as well?</p> <p>24 A. Yeah, I'm -- I've been planning now for several</p> <p>25 months to change that, but it is -- you know, the</p>
<p style="text-align: right;">Page 159</p> <p>1 A. Yeah, November 28th, 2017?</p> <p>2 Q. (By Mr. Nemelka) Yes.</p> <p>3 A. Yes.</p> <p>4 Q. And the second sentence says you -- or third</p> <p>5 sentence -- whatever -- second line of your email is,</p> <p>6 "The value in our sticky products is so huge as to</p> <p>7 overcome any economic advantage offered by CDK and Cox."</p> <p>8 Do you see that?</p> <p>9 MS. GULLEY: Objection; form.</p> <p>10 A. And what I'm talking about is -- and that's you</p> <p>11 take, for instance, docuPAD. Average increase in gross</p> <p>12 profit per sale -- per new unit sold, docuPAD, is right</p> <p>13 at \$200. If you take a -- a typical finance manager</p> <p>14 will do 70-plus transactions a month. That's \$14,000 a</p> <p>15 month worth of additional gross. Now, if you got -- if</p> <p>16 you got five finance managers, that's 14,000 times 5.</p> <p>17 The numbers are crazy.</p> <p>18 And that's -- the -- the stickiness issue</p> <p>19 is -- we're not, you know -- no, we're not putting</p> <p>20 sticky stuff on people. It's -- it's the additional</p> <p>21 gross profit to the dealership is -- is compelling.</p> <p>22 And -- and, you know, you perhaps have</p> <p>23 seen, you know, in Automotive News, where we run ads.</p> <p>24 These are direct quotes from people that you can call on</p> <p>25 the phone where they say, you know, "Reynolds product,</p>	<p style="text-align: right;">Page 161</p> <p>1 notification of senders is a big issue. And I haven't</p> <p>2 been able to find the time to bite down and get that</p> <p>3 done.</p> <p>4 Q. And so do you have a doc- -- do your emails get</p> <p>5 preserved -- that -- for your Reynolds email account?</p> <p>6 MS. GULLEY: Objection; form.</p> <p>7 A. They are all being preserved, at this point.</p> <p>8 Q. (By Mr. Nemelka) And were they preserved back</p> <p>9 in 2016, 2015?</p> <p>10 MS. GULLEY: Objection; form.</p> <p>11 A. My retention was somewhere between six -- six</p> <p>12 months and a year. Now, based upon how full my</p> <p>13 Outlook.pst file was getting -- and I get mountains of</p> <p>14 email. I mean, I spend half my life looking at email.</p> <p>15 And I don't smile at this, because I'm not intending it</p> <p>16 to be a joke, it's real.</p> <p>17 In our organization, there's a lot of</p> <p>18 hunting, and a lot fishing goes on. And, you know, in</p> <p>19 my organization, almost all my friends are inside the</p> <p>20 organization, and we're hunting and fishing buddies, and</p> <p>21 we swap fish pictures and hunting pictures. And they're</p> <p>22 10 meg, and they're high res, and a good fish picture</p> <p>23 deserves a really high res picture, and all that takes</p> <p>24 up space. And so therefore, I -- I find that I have to</p> <p>25 go back and delete --</p>

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<p style="text-align: right;">Page 162</p> <p>1 Q. (By Mr. Nemelka) Do you have a laptop that you 2 use for business-related matters? 3 MS. GULLEY: Form. 4 A. I just have one computer. 5 Q. (By Mr. Nemelka) And is that a -- is that a 6 laptop? 7 A. Yes. 8 Q. And do you download your email on to the 9 laptop? 10 A. Correct. 11 Q. And did you do that back in 2016, 2015? 12 A. I've always done it that way. 13 Q. And do you have your emails backed up -- your 14 historical emails backed up, then, on that laptop? 15 A. No. I don't. When -- when the things get 16 purged, I'm -- I'm a -- still the old school. I -- I 17 confess, it's perhaps my age; I like paper. And so 18 anything that's -- that's worth keeping long term is 19 printed and put in a file. 20 Q. So you print out your emails and documents that 21 are worth preserving and they're put in files? 22 A. Yes. 23 Q. Okay. Has Reynolds ever issued any external 24 backup drive to either back up your -- your laptop? 25 A. No. They did not.</p>	<p style="text-align: right;">Page 164</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 FOR THE NORTHERN DISTRICT OF ILLINOIS 3 EASTERN DIVISION 4) 5 IN RE: DEALER MANAGEMENT) MDL NO. 2817 6 SYSTEMS ANTITRUST) 7 LITIGATION,) CASE NO. 18 C 864 8) 9) 10) 11) 12) 13 REPORTER'S CERTIFICATION 14 ORAL AND VIDEOTAPED DEPOSITION OF ROBERT BROCKMAN 15 January 16, 2019 16 Volume 1 17) 18) 19 I, SHAUNA L. BEACH, Certified Shorthand 20 Reporter in and for the State of Texas, do hereby 21 certify to the following: 22 That the witness, ROBERT BROCKMAN, was duly 23 sworn by the officer and that the transcript of the oral 24 deposition is a true record of the testimony given by 25 the witness; I further certify that pursuant to FRCP Rule 30(e)(1) that the signature of the deponent: _X_ was requested by the deponent or a party before the completion of the deposition and is to be returned within 30 days from the date of receipt of the transcript. If returned, the attached Changes and</p>
<p style="text-align: right;">Page 163</p> <p>1 Q. Apart from printing them out, do you print them 2 out yourself or do you have your assistant print them 3 out? 4 A. I do it myself. 5 Q. Are those files kept at your home or in your 6 office at Reynolds? 7 A. At home. 8 Q. Do you use any other method, besides that 9 printout, to back up your emails or documents? 10 A. No. 11 Q. Do you use any tablets or mobile phones? 12 A. I have a mobile phone. 13 Q. Mobile phone. Any tablets? 14 A. No. 15 Q. And did your attorneys provide you with a 16 litigation hold notice? 17 MS. GULLEY: Objection; form. 18 A. Yes, they did. 19 MR. NEMELKA: All right. I have no further 20 questions today. 21 MS. GULLEY: Okay. Let's go off. 22 THE VIDEOGRAPHER: This concludes today's 23 proceeding for Mr. Robert Brockman. The time is 2:56 24 p.m., and we're off the record. 25 (Deposition adjourned at 2:56 p.m.)</p>	<p style="text-align: right;">Page 165</p> <p>1 Signature Page contains any changes and the reasons 2 therefor; 3 ____ was not requested by the deponent or a 4 party before the completion of the deposition. 5 I further certify that I am neither counsel 6 for, related to, nor employed by any of the parties or 7 attorneys to the action in which this proceeding was 8 taken. Further, I am not a relative or employee of any 9 attorney of record in this cause, nor am I financially 10 or otherwise interested in the outcome of the action. 11 Subscribed and sworn to on this 12 25th of January, 2019. 13 14 15 16  17 SHAUNA L. BEACH, RDR, CRR, CSR #8408 18 Expiration Date: 12/31/2019 19 20 21 22 23 24 25</p>

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<p style="text-align: right;">Page 166</p> <p>1 In Re: Dealer Management Systems Antitrust Litigation v.</p> <p>2 Robert Brockman</p> <p>3 INSTRUCTIONS TO THE WITNESS</p> <p>4 Please read your deposition over</p> <p>5 carefully and make any necessary corrections.</p> <p>6 You should state the reason in the</p> <p>7 appropriate space on the errata sheet for any</p> <p>8 corrections that are made.</p> <p>9 After doing so, please sign the errata</p> <p>10 sheet and date it.</p> <p>11 You are signing same subject to the</p> <p>12 changes you have noted on the errata sheet,</p> <p>13 which will be attached to your deposition.</p> <p>14 It is imperative that you return the</p> <p>15 original errata sheet to the deposing</p> <p>16 attorney within thirty (30) days of receipt</p> <p>17 of the deposition transcript by you. If you</p> <p>18 fail to do so, the deposition transcript may</p> <p>19 be deemed to be accurate and may be used in</p> <p>20 court.</p> <p>21</p> <p>22</p> <p>23</p> <p>24 3185059</p> <p>25</p>	<p style="text-align: right;">Page 168</p> <p>1 In Re: Dealer Management Systems Antitrust Litigation v.</p> <p>2 Robert Brockman</p> <p>3 ACKNOWLEDGMENT OF DEPONENT</p> <p>4 I, _____, do</p> <p>5 hereby certify that I have read the foregoing</p> <p>6 pages and that the same is a correct</p> <p>7 transcription of the answers given by</p> <p>8 me to the questions therein propounded,</p> <p>9 except for the corrections or changes in form</p> <p>10 or substance, if any, noted in the attached</p> <p>11 Errata Sheet.</p> <p>12</p> <p>13 _____</p> <p>14 DATE SIGNATURE</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 3185059</p> <p>25</p>
<p style="text-align: right;">Page 167</p> <p>1 In Re: Dealer Management Systems Antitrust Litigation v.</p> <p>2 Robert Brockman</p> <p>3 E R R A T A</p> <p>4 - - - - -</p> <p>5 PAGE LINE CHANGE</p> <p>6 - - - - -</p> <p>7 Reason: _____</p> <p>8 - - - - -</p> <p>9 Reason: _____</p> <p>10 - - - - -</p> <p>11 Reason: _____</p> <p>12 - - - - -</p> <p>13 Reason: _____</p> <p>14 - - - - -</p> <p>15 Reason: _____</p> <p>16 - - - - -</p> <p>17 Reason: _____</p> <p>18 - - - - -</p> <p>19 Reason: _____</p> <p>20 - - - - -</p> <p>21 Reason: _____</p> <p>22 - - - - -</p> <p>23 Reason: _____</p> <p>24 3185059</p> <p>25</p>	

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[system - third]

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[third - understanding]

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[understanding - website]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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